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Security Council

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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/631).

The Counter-Terrorism Committee has received the attached supplementary report from Luxembourg submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-59220 (E) 300902 300902

Annex

[Original: French]

Letter dated 21 August 2002 from the Permanent Representative of Luxembourg to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I refer to your letter of 28 May 2002 by which you transmitted a series of questions from the Counter-Terrorism Committee to the authorities in my country in order to complete the report submitted by the Government of Luxembourg pursuant to paragraph 6 of Security Council resolution 1373 (2001).

In reply to that letter, I am hereby transmitting the supplementary report of the Grand Duchy of Luxembourg dated 20 August 2002, submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Hubert **Wurth**
Ambassador

Enclosure

Grand Duchy of Luxembourg: supplementary report dated 20 August 2002 submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Subparagraph 1 (a)

Does Luxembourg have any provision for regulating informal banking networks? Please outline such provisions.

Luxembourg does not have any special legislation on informal banking networks. However, the Luxembourg authorities consider that such networks fall within the scope of its banking laws and are consequently subject to all the obligations and verifications provided for in the legislation for this sector. For further information, see the explanations provided in the third paragraph of subparagraph 1 (a) and in subparagraph 1 (c).

Have there been convictions of natural or legal persons for non-cooperation with the authorities in the course of prosecution for alleged acts of money-laundering? What are the penalties incurred and the sentences, if any, that have been handed down?

To date, no natural or legal person has been convicted for not cooperating with the authorities in the framework of prosecution for alleged acts of money-laundering.

As the positive law of Luxembourg now stands, failure to cooperate and refusal to cooperate are liable to a fine of €1,250 to €125,000. However, in accordance with future articles 135-1 to 135-8 and 506-1 of the Penal Code, as they appear in the draft law of 29 April 2002 on the suppression of terrorism and its financing and on the approval of the International Convention for the Suppression of the Financing of Terrorism which was opened for signature in New York on 10 January 2000, such an act will also be punishable by imprisonment in accordance with the distinctions laid down in those articles.

Are natural or legal persons other than banks (e.g. attorneys, notaries) required to report suspicious transactions that might be linked to terrorist activities to the public authorities? If so, what penalties apply to persons who omit to report either wilfully or by negligence?

By virtue of the law of 11 August 1998 which incorporates criminal organizations and the offence of money-laundering into the Penal Code, all professionals in the financial sector, such as credit institutions, capital asset managers, advisers on financial transactions, brokers, professional securities depositories, notaries, company auditors, chartered accountants, insurance companies and gambling casinos are under an obligation to denounce suspect operations.

As the positive law of Luxembourg now stands, failure to cooperate and refusal to cooperate are liable to a fine of €1,250 to €125,000. However, in accordance with future articles 135-1 to 135-8 and 506-1 of the Penal Code, as they appear in the draft law of 29 April 2002 on the suppression of terrorism and its financing and on the approval of the International Convention for the Suppression of the Financing of Terrorism which was opened for signature in New York on 10 January 2000, such an act will also be punishable by imprisonment in accordance with the distinctions laid down in those articles.

Subparagraph 1 (b)

The CTC notes that Luxembourg is completing the constitutional procedure to become a party to the International Convention for the Suppression of the Financing of Terrorism and is therefore preparing amendments to its legislation. Please provide a progress report on the proposed law aimed at constituting the financing of terrorism as an autonomous offence.

By the Grand Ducal decree of 29 April 2002, the Minister of Justice was authorized to submit to the Chamber of Deputies of Luxembourg the draft law on the suppression of terrorism and its financing and on the approval of the International Convention for the Suppression of the Financing of Terrorism which was opened for signature in New York on 10 January 2000.

The draft law has been submitted to the Council of State for its opinion, which will probably be issued in November 2002, after which the draft law will be examined by the competent committee of the Chamber of Deputies.

Subparagraph 1 (c)

In addition to the directly applicable EC regulation on the freezing of funds, does Luxembourg have an autonomous legal power to freeze funds belonging to individuals connected with terrorist acts?

First of all, in accordance with the rules of criminal procedure under ordinary law, it is possible to conduct searches and to seize objects and articles that have been used or that are to be used to commit crimes. Such searches and seizures may be made either on the basis of a request for mutual assistance in judicial matters from another State or when a procedure has been initiated within Luxembourg at the request of the Prosecution Service.

In addition to the directly applicable European Community texts, Luxembourg has legal instruments which allow for funds to be blocked within the limits established by European legislation. These include the Grand Ducal decree of 10 November 1944 on foreign exchange control and the law of 21 December 2001 authorizing the Grand Duke to regulate certain matters. This enabling law is renewed every year.

Luxembourg's legislation on freezing funds and assets is also to be reviewed as soon as the relevant draft framework-decision is adopted by the European Union.

Moreover, the existing legal mechanism against money-laundering, which applies to all professionals in the financial sector, contains rules similar to those applicable to the freezing of assets proper.

Under these provisions and article 40 of the law of 5 April 1993 concerning the financial sector, credit institutions and other professionals in the financial sector are required to respond to and cooperate with, as fully as possible, any legally valid request transmitted to them by the law enforcement authorities in the performance of their duties.

These same persons are also required to abstain from executing any transaction that they know or suspect to be linked to money-laundering before informing the Public Prosecutor, who may order that the operation in question be stopped. If it is suspected that the transaction involves money-laundering and if stopping it is not possible or is likely to hinder the prosecution of the beneficiaries of a suspected

money-laundering operation, the institutions and other professionals concerned may carry out the transaction in question but must inform the Public Prosecutor about it immediately afterwards.

Furthermore, credit institutions and other professionals in the financial sector, as well as their managers and employees, may not reveal to the customer concerned or third persons that information has been transmitted to the authorities or that a money-laundering investigation is in progress.

As the positive law of Luxembourg now stands, the offence of money-laundering, as far as combating terrorism is concerned, covers the basic offences of criminal conspiracy, corruption and arms trafficking.

However, the draft law of 29 April 2002 on the suppression of terrorism and its financing and on the approval of the International Convention for the Suppression of the Financing of Terrorism aims to specifically extend professional obligations regarding money-laundering to all terrorist offences proper, which will be defined in the law.

Subparagraph 1 (d)

How does the financial tracking system ensure that funds received by associations are not diverted from their stated purposes to terrorist activities?

Under the amended law of 21 April 1928 on non-profit associations and foundations, the establishment of a foundation must be approved by means of a Grand Ducal decree. For that purpose, the foundation's statutes are checked to ensure that they comply with the requirements of the above law of 21 April 1928.

Moreover, inter vivos gifts and bequests of more than €12,500 to a foundation must be approved and foundations are required to submit their annual accounts and their budget to the Minister of Justice each year, within two months of the end of the financial year.

Financial transactions of associations and foundations can be carried out only by banking institutions legally established in the Grand Duchy of Luxembourg and are therefore subject to the same rules as all other financial transactions carried out by these institutions. Consequently, they must comply inter alia with the principles of "Know Your Customer" and must report suspicious operations that might be linked to money-laundering.

On the basis of article 18 of the above-mentioned law of 21 April 1928, the Prosecution Service may also request that an association be dissolved, particularly when it uses its assets for activities other than those for which it was established or that are contrary to law or public order.

Subparagraph 2 (a)

Do those who buy or sell weapons in Luxembourg require a licence to do so legally? Are there legal provisions prohibiting the trafficking and brokering of weapons to terrorists and their organizations?

In the Grand Duchy of Luxembourg, pursuant to the law of 15 March 1983 on weapons and ammunition, anyone wishing to acquire, import, transport, own, carry, sell or transfer firearms must have a permit issued by the Ministry of Justice.

Weapons dealers legally established in Luxembourg may therefore sell or deliver firearms only to those private individuals who hold such permits. Moreover, a special licence issued by the competent authorities of Luxembourg is needed in order to import and export weapons and ammunition.

Given that the weapons trade is thus subject to the issuance of permits, which are issued only after the applicant's background has been checked, and that such trade with individuals or companies not in possession of the permits required by law is prohibited and is subject to a penalty, the current positive law of Luxembourg does not contain any specific provision forbidding the trade of weapons with terrorist organizations.

Subparagraph 2 (e)

What is the competence of the courts of Luxembourg to deal with criminal acts of each of the following kinds:

- *An act committed outside Luxembourg by a person who is a citizen of, or habitually resident in, Luxembourg (whether that person is currently present in Luxembourg or not);*
- *An act committed outside Luxembourg by a foreign national who is currently in Luxembourg?*

Under article 5 of the Code of Criminal Procedure, any citizen of Luxembourg who commits outside the territory of Luxembourg a crime that is punishable under the law of Luxembourg may be prosecuted and tried in the Grand Duchy of Luxembourg.

Pursuant to article 7 of the same Code, any foreigner who, as far as combating terrorism is concerned, commits, outside the territory of Luxembourg, a crime against the security of the State or public safety, or who falsifies certain official documents, commits murder, inflicts wilful bodily injuries or who interferes with the individual freedom of a citizen of Luxembourg or of an allied country may be prosecuted and sentenced under the laws of Luxembourg if he/she is found in the Grand Duchy of Luxembourg, or is found abroad and the Government of Luxembourg obtains his/her extradition.

Lastly, the draft law of 29 April 2002 on the suppression of terrorism and its financing and on the approval of the International Convention for the Suppression of the Financing of Terrorism aims to introduce into the Code of Criminal Procedure a provision whereby anyone who commits abroad any of the terrorist offences, which are to be included in the Penal Code by the same draft law, may be prosecuted and sentenced in the Grand Duchy of Luxembourg, if an extradition request is filed and the person concerned is not extradited.

Subparagraph 2 (f)

What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or support of terrorist acts) must be met, and how long does it actually take in practice to implement such a request in Luxembourg?

The legislation of Luxembourg does not contain any special provision stipulating a deadline within which requests for mutual legal assistance must be met.

However, under article 7 of the law of 8 August 2000, mutual legal assistance cases are treated on an urgent and priority basis and the authority receiving the request informs the requesting authority of the status of the procedure and of any delay. The time frame within which such requests are fulfilled varies greatly and depends on the scope and complexity of the steps to be taken in order to fulfil a given request.

Subparagraph 3 (c)

With which countries has Luxembourg entered into bilateral treaties on extradition and mutual legal assistance?

In addition to the multilateral legal instruments on extradition and mutual legal assistance signed by the Grand Duchy of Luxembourg within the framework of international organizations, the country has concluded the following bilateral agreements:

1. With the United States of America, an extradition treaty on 1 October 1996 and a treaty on mutual legal assistance in criminal matters on 13 March 1997; and

2. With Australia, an extradition treaty on 23 April 1987 and a treaty on mutual legal assistance in criminal matters on 24 October 1988.

Subparagraph 3 (d)

The CTC would welcome a progress report, in relation to the international conventions and protocol relating to terrorism, on the steps taken in connection with:

– *Becoming a party to the instruments to which Luxembourg is not yet a party; and*

– *Enacting legislation and making other necessary arrangements to implement those to which it is a party.*

Luxembourg intends to accede to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 14 December 1973).

The procedure for the adoption of three other international instruments has begun. The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988) was signed by Luxembourg on 18 May 1989, the opinion of the Council of State on this matter was received on 8 November 2001 and the relevant draft law was submitted to the Chamber of Deputies on 30 November 2001.

The International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997), which Luxembourg signed on 6 February 1998, has been submitted to the Council of State for its opinion.

Lastly, the Protocol against the Smuggling of Migrants by Land, Sea or Air, Supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000), was signed by Luxembourg on 14 December 2000 and the draft law for its incorporation into national law is being drawn up.

Furthermore, the Luxembourg authorities are examining the possibility of signing the following three conventions:

- Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991);
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988); and
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (Rome, 10 March 1988).

To conclude, it must be pointed out that the law concerning inter alia the approval of the International Convention for the Suppression of the Financing of Terrorism (New York, 10 January 2000) was submitted to the Chamber of Deputies on 29 April 2002 (see subparagraph 1 (b) above).

Subparagraph 3 (e)

Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which Luxembourg is a party?

Under article 3, paragraph 1, of the law of 20 June 2001 on extradition, any act that is punishable under the law of Luxembourg and the law of the requesting State by imprisonment for at least one year or by a heavier sentence is, in general, extraditable.

This general rule does not prejudice the validity of any particular provisions of an international legal instrument stipulating a sentence of less than a year, such as article 2 of the Convention on Extradition and Mutual Legal Assistance concluded by the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, which provides for a six-month sentence.

Since all offences in the fight against terrorism are punishable by heavier sentences, violations listed in conventions and protocols designed to counter terrorism are extraditable.

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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/634).

The Counter-Terrorism Committee has received the attached supplementary report from Lithuania, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-59690 (E) 011002

Annex

Letter dated 27 August 2002 from the Permanent Representative of Lithuania to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to submit responses to the request of the Counter-Terrorism Committee for additional information with regard to Lithuania's report on the implementation of resolution 1373 (2001), which was submitted to the Counter-Terrorism Committee on 28 December 2001 (see enclosure).

(*Signed*) Gediminas **Šerkšnys**
Ambassador
Permanent Representative

Enclosure

Responses to the request of the Counter-Terrorism Committee for additional information with regard to Lithuania's report on the implementation of resolution 1373 (2001)*

Operative Paragraph 1
Sub-paragraph 1 (a)

The Bank of Lithuania seeking to protect the interests of depositors, and to assure the safety, trustworthiness and stability of the bank and banking system has the right to apply to banks the following sanctions:

– to ward the bank for the shortcomings and violation of their activities and set the term for their elimination;

– to impose fines on the heads of the bank administration according to the procedure prescribed by law;

– to suspend or revoke the license of a bank restricting only, several or all of its operations (moratorium);

– to suspend or revoke the license of a bank branch operation;

– to request the removal of a member (members) of the bank board or head of the bank administration and the appointment of administrator to the bank;

– to request the suspension of powers of a member (members) of the bank council;
to suspend the powers of the bank council, remove from office the board of the bank, the head of the bank administration and appoint a bank administrator and, if so required, appoint deputy administrators;

– to limit access and use of the accounts held in the Bank of Lithuania;
to revoke a bank license.

The type of sanctions is selected by the Bank of Lithuania taking into consideration the nature of the violation on the grounds whereof the sanction is imposed, and the effect that the violation and the imposed sanction shall have on the safety, stability and trustworthiness of the bank and the banking system.

Article 172-4 of the Code of Administrative Offences of the Republic of Lithuania stipulates that provision of false information or failure to provide to the Bank of Lithuania the necessary information or documents needed for the establishment of the financial and economic state of a bank or economic entity or for examining of banking operations being carried out, also violation of the Law of the Republic of Lithuania, other legal acts and legal acts of the Bank of Lithuania regulating the credit activity is punishable by a fine from ten thousand to fifty thousand Litas (LTL) (1 USD is approx. 3.5 Litas).

Under the Law on the Prevention of Money Laundering, credit and financial institutions, also notaries public and customs authorities must: establish the identity of their customers while opening accounts or entering into other business relations; report information on the identity of customers to the Financial Crime Investigation Service (FCIS) under the Ministry of Interior; report information about suspicious cash transactions that might be related to criminal activity (including terrorism); report information about cash transactions in excess of LTL 50,000 or the respective amount in foreign currency; report information about operations in currency exchange in

* The annexes are on file with the Secretariat and are available for consultation.

cases where the amount of cash exchange is in excess of LTL 20,000, or the respective amount in foreign currency, about transactions in excess of LTL 50,000, or the respective amount in foreign currency; report information about cases of legal or natural persons bringing or taking out across the state border single sums of cash in excess of LTL 50,000, or the respective amounts in foreign currency.

Under Article 17214 of the Code of Administrative Offences, violations of the order in which measures to prevent money laundering are implemented (including failure to report information on cash transactions) are punishable by a fine. In cases when a person fails, without a reasonable ground, to inform, in shortest time possible, the law enforcement institutions of a known act of terrorism being prepared, being committed or having been committed, he/she is punishable under Article 294 of the Criminal Code, "Failure to Report a Crime", by imprisonment for a term of up to two years and a fine, or by a fine.

The Bank of Lithuania has no information about the existence of informal banking networks in the Republic of Lithuania. Under Article 3 of the Law on Commercial Banks it is prohibited to engage in banking activities without a license of the Bank of Lithuania. Article 42 of the Law on the Bank of Lithuania stipulates that a credit institution is bank, another legal person or a subdivision of a foreign credit institution whose activities on the basis of legal acts are regarded as activities of credit institutions, and which hold a license or permission issued by the Bank of Lithuania to engage in certain operations provided for in laws. Article 43 of the above Law provides that it is prohibited to engage in the activities of credit institutions without a license or permission of the Bank of Lithuania. The terms and procedure for the issue of licenses and permissions are established by the laws that regulate the establishment and activities of credit institutions and other laws of the Republic of Lithuania, as well as legal acts issued by the Bank of Lithuania.

Article 306 of the Criminal Code establishes criminal liability for engagement in large scale commercial, economic, financial or professional activities without establishing an undertaking or in some other illegal way, or without a license (permit) to engage in such activities. Such acts are punishable by imprisonment for a term of up to two years and a fine, or by a fine.

Amendments have been drafted to the Resolution of the Government of the Republic of Lithuania and the Board of the Bank of Lithuania No 1381/9 "On Approving the Criteria for Determining whether the Monetary Operation is Suspicious" of 11 December 1997. The aim of the amendments is to expand the list of criteria on the basis of which credit and financial institutions must treat cash transactions as suspicious and immediately report such information to FCIS under the Ministry of Interior. One of these criteria is directly related to the prevention of the financing of terrorism and runs as follows: "whether customer identification data of customers and customers' agents (in cases where a cash transaction is carried out through an agent) or beneficiaries of transactions comply with the data provided in the lists communicated by law enforcement institutions of foreign countries or international organizations.

Sub-paragraph 1 (b)

On 4 July 2002 the Seimas of the Republic of Lithuania (Lithuanian Parliament) adopted Law No IX-1036 which amended Articles 226(1) and 227(3) of the Criminal Code. The amendments entered into force on 19 July 2002.

Article 226(1) of the CC. Falsely Reporting an Impending Threat to the Public or an Occurrence of such a Threat

A false report by means of telephone, radio or any other means of news about a danger threatening the public or a major disaster, thereby causing an unnecessary callout of appropriate emergency services or confusion among people, —
shall be punishable by imprisonment for a term of up to 2 years and a fine or imprisonment without a fine or by a fine.

A false report by means of telephone or radio or any other means about a danger threatening the public, thereby causing disruption of mass gatherings, or a false report about a threat to state authority or administration institutions or a strategic facility, thereby causing a disruption of their activity or a major damage to property, –
shall be punishable by imprisonment for a term of up to 4 years.

Article 227(3) of the CC. An Act of Terrorism

Planting of explosives with the aim of causing an explosion, bombing or arson, where carried out in a dwelling, a working place, a place of public gatherings or a public place, –
shall be punishable by imprisonment for a term of up to 10 years.

The same act, where it causes bodily harm to the victim, or destruction or damage to a means of transport, or a building or equipment therein, –
shall be punishable by imprisonment for a term from 3 to 12 years.

An explosion, arson or any other destruction of or damage to a building or facility, where it causes danger to the life and health of a great number of people, or dissemination of biological, radioactive or chemical noxious substances, preparations or micro-organisms, —
shall be punishable by imprisonment for a term from 5 to 15 years.

Acts specified in paragraph 3 of this Article, where they are committed against a strategic facility or lead to grave consequences, —
shall be punishable by imprisonment for a term from 10 to 20 years or life imprisonment.

Creation of or participation in a terrorist group consisting of three or more persons for the commission of a terrorist act, also the financing of such a group or the provision of any other support to it —
shall be punishable by imprisonment for a term from 4 to 10 years.

No amendments have been made to Article 250 of the new Criminal Code (not yet in force).

Sub-paragraph 1 (c)

The Code of Criminal Procedure of the Republic of Lithuania

Article 194(1). Provisional restraint of property ownership rights

To ensure a civil claim, possible forfeiture of property, the payment of a fine, on the basis of materials gathered during an examination or of evidence in the criminal case and with sufficient grounds to suspect that the person has acquired the property in criminal manner and that he might squander, conceal or alienate the property or the rights to it, the investigator, the interrogator or the prosecutor shall have the right to provisionally restrain this person's ownership rights to this property by a reasoned decision sanctioned by the Prosecutor General of the Republic of Lithuania or his Deputies, or by the chief prosecutors of regions or districts or their deputies.

The decision to provisionally restrain the property ownership rights shall be notified to the person whose ownership rights have been restrained and shall be entered in the Register of Sequestrated Property in the same manner as a decision on property sequestration.

Where property ownership rights are restrained on the basis of materials gathered during an examination, criminal proceedings must be instituted within fifteen days of the moment the decision on the provisional restraint of ownership rights was made. If an audit of documents is ordered during the investigation, criminal proceedings must be instituted within fifteen days of the delivery of the results of the audit. If criminal proceedings are not instituted within that period of time, the provisional restraint of property ownership rights shall be rescinded.

The property subject to provisional restraint of ownership rights shall be listed in accordance with the provisions set out in paragraph 3 of Article 195 and Articles 197 and 198 of this Code and shall be taken over to be controlled by the investigator, the interrogator or the prosecutor.

Where provisional restraint of ownership rights is effected with regard to assets held in accounts of banks and other credit institutions, the persons whose ownership rights have been provisionally restrained shall have the right to perform only those transactions with the said assets that have been stipulated in the restraint decision.

If provisional restraint of ownership rights is deemed no longer necessary, if no criminal proceedings are instituted or if, in all these cases, the restraint exceeds the period of six months, it shall be rescinded on a decision by the investigator, the interrogator or the prosecutor.

Persons whose property ownership rights have been provisionally restrained shall have the right to appeal against the decision to a superior prosecutor within five days of the receipt of the copy of the decision, and the right to appeal against the decision of the superior prosecutor to the court within ten days of its receipt.

Article 194(2). Provisional restraint of property rights of persons suspected of possessing property acquired in a criminal manner

To ensure the forfeiture of property, on the basis of materials gathered during an examination or of evidence in the criminal case and with sufficient grounds to suspect that a natural or legal person has received from another natural or legal person property acquired in a criminal manner, which is subject to forfeiture under Article 35 of the Criminal Code of the Republic of Lithuania, and might squander, conceal this property or transfer this property or rights to it to a third person, the investigator, the interrogator and the prosecutor shall have the right to provisionally restrain such a person's property ownership rights to this property by a reasoned decision sanctioned by the Prosecutor General of the Republic of Lithuania or his Deputies, or by the chief prosecutors of regions or districts or their deputies.

The decision to provisionally restrain the property ownership rights shall be notified to the person whose ownership rights have been restrained and shall be entered in the Register of Sequestrated Property in the same manner as a decision on property sequestration.

Where property ownership rights are restrained on the basis of materials gathered during an examination, criminal proceedings must be instituted within fifteen days of the moment the decision on the provisional restraint of ownership rights was made. If an audit of documents is ordered during the investigation, criminal proceedings must be instituted within fifteen days of the delivery of the results of the audit. If criminal proceedings are not instituted within that period of time, the provisional restraint of property ownership rights shall be rescinded.

The property subject to provisional restraint of ownership rights shall be listed in accordance with the provisions set out in paragraph 3 of Article 195 and Articles 197 and 198 of this Code and shall be taken over to be controlled by the investigator, the interrogator or the prosecutor.

Where provisional restraint of ownership rights is effected with regard to assets held in accounts of banks and other credit institutions, the natural and legal persons shall have the right to perform only those transactions with the said assets that have been stipulated in the restraint decision.

If provisional restraint of ownership rights is deemed no longer necessary, if no criminal proceedings are instituted or if, in all these cases, the restraint exceeds the period of six months, it shall be rescinded on a decision by the investigator, the interrogator or the prosecutor.

Persons whose property ownership rights have been provisionally restrained shall have the right to appeal against the decision to a superior prosecutor within five days of the receipt of the copy of the decision, and the right to appeal against the decision of the superior prosecutor to the court within ten days of its receipt.

Article 195. Sequestration of property

To secure a civil claim, as well as possible confiscation of property, the investigator must sequestrate the property of the suspect, the accused or the natural person who is materially responsible under the law for the actions of the former, as well as the property of other persons who hold the property received or acquired in a criminal manner. The property may be sequestrated either together with seizure or search or separately. Property of the natural person may be sequestrated:

1) to secure possible confiscation of property in the cases provided for by Article 35 of the Criminal Code;

2) to secure a civil claim when there are substantial grounds to prosecute a legal person as civil party in the criminal proceedings.

The property sequestration shall be effected upon a reasoned decision in accordance with the regulations set out in Article 195(2). The property subject to sequestration shall be listed in accordance with the provisions set out in Articles 189, 191, 197 and 198 of this Code.

Items that are indispensable for the suspect, the accused, members of their families and dependants and that are listed in a list drawn up in accordance with the laws of the Republic of Lithuania shall not be subject to sequestration.

The official making a sequestration order must take measures to prevent damage being done to the property as a result of its sequestration, and to resolve the question of safekeeping, administration and use of the property sequestrated.

In cases where the property is sequestrated with full restriction of ownership rights (by prohibiting disposing, using or administering it), the property subject to sequestration is taken from its owner. The sequestered property may be passed over for safekeeping to state institutions, municipal institutions, housing maintenance organizations or to another person after obtaining their signature as to notification of their responsibility for embezzlement, transfer or concealment of the said property. In cases where the property subject to sequestration is owned by joint ownership right, only the share of the property of the person, against whom restriction of ownership rights has been imposed, may be sequestrated. If his share in joint ownership is not determined, all property may be temporarily sequestrated until the share of that person in joint ownership is determined.

Upon sequestration of a deposit held in a bank or another credit institution, a person whose deposit is sequestrated shall be prohibited from disposing of the deposit the amount of which is specified in the order.

In cases where goods, raw materials, semi-manufactures and ready for use products in circulation are subject to sequestration, the person managing the property shall have the right to change its composition and form, provided its total value does not decrease, unless the order specifies otherwise.

Property sequestration is rescinded upon the decision of the investigator if the said measure becomes unnecessary.

Sub-paragraph 1 (d)

The FCIS under the Ministry of Interior carries out an analysis of cash transactions. The main attention is focussed on determining whether natural and legal persons conducting these transactions are not linked to criminal activities, whether the nature and amount of a cash transaction are in line with these persons regular type of activity and its scale. Upon establishing that a cash transaction is suspicious or that the person conducting it

has previous convictions or is subject of an ongoing investigation, or that the nature and scale of the transaction does not comply with the regular, publicly disclosed activity of the person, taking into consideration the possibility of a primary offence, passes on all the collected information to a relevant law enforcement institution for further investigation.

After the adoption of the Government's Resolution No 1281 of 31 October 2001 "On Measures for the Implementation of Resolutions of the United Nations Security Council", the Division on the Prevention of Money Laundering of the FCIS under the Ministry of Interior started searching for suspicious financial transactions that might be linked to the funding of terrorist activities. In several stages, requests for the screening of 374 natural persons and 57 undertakings and organizations linked to terrorist activities have been received from financial intelligence units of foreign countries. A search in the data base of the Division was carried out and inquiries were sent to all the banks with the aim of establishing if the above persons were customers of credit and financial institutions and if they were not engaged in financial transactions with customers of other credit and financial institutions operating in the Republic of Lithuania. Officers of credit and financial institutions responsible for the implementation of money laundering prevention measures were instructed to carry out checks with relation to the customers and transactions in question and to treat all future transactions related to the listed persons as suspicious, and, in accordance with Article 8 of the Law on the Prevention of Money Laundering, "Suspicious Monetary Transactions", to inform the FCIS under the Ministry of Interior about them without delay.

Sub-paragraph 2 (a)

The Law on the Fight against Terrorism is in the drafting stage.

On 15 January 2002 the Seimas of the Republic of Lithuania adopted a new Law on the Control of Arms and Ammunition (Official Journal No. 13-467, 2000) which will come into force on 1 July 2003.

The new law consists of 15 chapters and 50 articles. Chapter 1 („General Provisions") sets out the definitions used in the law and its objective and purpose.

Chapter 2 of the law presents a detailed classification of arms and ammunition. Arms are classified into 4 categories according to the degree of their dangerousness: A, B, C, D, category A arms and ammunition being the most dangerous and category D – the least dangerous.

Chapter 3 defines prohibited arms and ammunition.

Chapter 4 establishes that data about arms registered, their owners and managers is to be submitted to the State Arms Register and regulates the accounting of arms in departmental arms registers and of arms in the civil circulation.

Chapter 5 regulates the acquisition and possession of arms and ammunition, defines the subject to the right of ownership of arms and ammunition, his right to acquire and keep arms and ammunition, stipulates the requirements for the issuance of permits; also establishes the requirements for acquiring and keeping of certain categories and types of arms and ammunition by permanent residents of the Republic of Lithuania and legal persons registered in the Republic of Lithuania; regulates the right of foreigners to acquire and keep arms and ammunition, also establishes requirements for foreigners in acquiring certain categories of arms; defines persons who can be users of arms and ammunition; establishes cases when the right to acquire arms and ammunition is restricted; provides a definition of a person of impeccable reputation who is granted the right to acquire arms and ammunition.

Chapter 6 deals with economic commercial activities related to arms and ammunition: establishes general requirements for economic commercial activities related to arms and ammunition; sets out restrictions of the right to carry out work related to the activities subject to licensing; establishes the duties of holders of general license;

stipulates the requirements for legal persons wishing to engage or engaged in the manufacture of arms, their major parts and ammunition; regulates the procedures of export, import and transit of arms and ammunition; trade in arms; repair of arms; modification of arms and ammunition; operation of indoor ranges and shooting ranges; hire of arms.

Chapter 7 regulates the duties of the arms owners, arms holders and users.

Chapter 8 establishes the procedure for the keeping, storing, carrying and use of arms and ammunition.

Import, export and carriage of arms and ammunition in the territory of the Republic of Lithuania are regulated in Chapter 9 of the Law.

The new law also establishes the procedure for the collection of arms and ammunition; organization of exhibitions; cancellation of permits to carry and keep arms and ammunition; seizure, inheritance, giving as a gift, sale, and destroying of arms and ammunitions.

The final provisions (Chapter 15) stipulate the institutions charged with the control of the circulation of arms and ammunition, also provide for the exchange of information with foreign states regarding the circulation of arms and ammunition; establish liability for violations of the circulation of arms and ammunition; define the cases of application of international agreements; establish the date for the law's coming into force and the list of laws that are to become invalid upon coming into force of the new law.

At the present time, until the coming into force of the new law, the basic provisions regulating the circulation of arms and ammunition in the Republic of Lithuania, establishing the legal grounds for the activity of institutions exercising state supervision of arms and ammunition, and setting out requirements to persons whose activities are related to arms and ammunition are stipulated in the Law on Arms and Ammunition adopted in 1996.

The said law stipulates that holders of the right to own and hold arms and ammunition shall be citizens of the Republic of Lithuania, natural and legal entities registered in the Republic of Lithuania. Citizens of the Republic of Lithuania can acquire, keep and carry civil arms of limited civil circulation subject to a permit, issued in accordance with procedure established by the Government, to acquire, keep and carry arms of limited civil circulation for the purposes of hunting; sports; security (self-defense and protection of property); professional activity; establishing, storing or augmenting of a collection of usable arms; also for other purposes provided they do not contradict the existing laws.

Sale, manufacture and repair of arms, also manufacture and sale of ammunition on the territory of the Republic of Lithuania are only allowed subject to a license issued in accordance with procedure established by the Government. Undertakings engaged in the import of arms must also hold a license issued by the Ministry of Interior.

Individuals can sell their legally owned arms through persons or entities that have the right to trade in arms of this type but must notify the permit issuing institution and receive its permission before doing so.

Sale of arms and ammunition to natural and legal persons who fail to produce a license to acquire the arms of the given type is prohibited; it is also illegal to sell arms that do not have a serial number and marking or ammunition without a standard conformity marking.

The Criminal Code of the Republic of Lithuania establishes liability for illegal carrying, keeping, acquisition, manufacture and sale of arms and ammunition (Article 234) and for arming criminal groups (Article 234); such acts are attributed to the category of grave offences. The Criminal Code (Article 235) also establishes liability for the illegal manufacture, with the aim of selling, for the sale, and also for the carrying of blank or silent arms (swards, daggers, bayonets, hunting knives, crossbows) or any other implements or things specifically produced or modified with the aim of taking the life or inflicting bodily injury.

Under the Law on the State Security Department and the Law on Undercover Activity, the State Security Department conducts operative activities with the aim of identifying members of terrorist organizations and preventing terrorist acts. Such persons are also subject to criminal procedural measures.

The National Anti-Terrorism Program came into force on 22 January 2002.

Sub-paragraph 2 (b)

The institution responsible for providing early warning to other states at the present time is the Lithuanian National Bureau of Interpol. An Europol bureau in Lithuania is under creation.

Sub-paragraph 2 (c)

The Migration Department under the Ministry of Interior receives information about persons who have committed, organized terrorist acts, and also helped commit and organize terrorist acts. Such individuals are entered in the list of undesirable aliens who are denied entry into the Republic of Lithuania. Under point 5 section 1 of Article 7 of the Law on the Legal Status of Aliens, an alien is refused admission to the Republic of Lithuania if he has been prohibited from entry into the Republic of Lithuania. Thus terrorists, irrespective of their nationality and the place of commission of the terrorist act, are refused admission to the Republic of Lithuania.

Under point 6, paragraph 1 of Article 21 and point 3, paragraph 1 of Article 24 of the Law on the Legal Status of Aliens, a temporary residence permit is rescinded if, after committing a crime punishable by imprisonment, the alien has served the sentence or has been released on parole in the Republic of Lithuania. Thus residence permits for terrorists, irrespective of their nationality and the place of commission of the terrorist act, are rescinded.

Sub-paragraph 2 (e)

Article 6 of the current Criminal Code stipulates that Lithuanian nationals and permanently residing stateless persons are liable under the criminal statutes of Lithuania for crimes committed abroad. Therefore, in cases when a Lithuanian national or a stateless person permanently residing in Lithuania commits a crime abroad, there are grounds to request, in accordance with the procedure established in international bilateral and multilateral agreements concluded or acceded by the Republic of Lithuania, that he/she is extradited to Lithuania and brought to trial for the crimes committed. Other persons can be brought to trial under Lithuanian criminal statutes for crimes committed abroad only if the committed act is recognized as a crime and is punishable both under the laws of the place of the commission of the crime and the criminal law of the Republic of Lithuania. At the same time, it must be noted that paragraph 2 of Article 6 of the Criminal Code stipulates that in the case of a person who commits a criminal act abroad being prosecuted under the criminal statutes of Lithuania, it must be established whether there are no differences with regard to punishment under the laws of the two countries. In cases when the laws of one of the countries carry a more lenient punishment, the penalty applied should not exceed that provided for under the more lenient statute. Under paragraph 3 of the above Article, a person who commits a crime abroad is not held criminally liable in Lithuania, if he: 1) has fully served the sentence imposed by the court abroad; 2) has been acquitted or relieved from criminal liability by an effective judgement of a foreign court, or no penalty has been imposed by reason of the statute of limitations or other legal grounds which may be provided for in that foreign country.

Paragraph 2 of Article 6 of the Criminal Code in principle does not prevent the application of universal jurisdiction, whereby all states prosecute found offenders regardless of where the crime was committed. The application of this principle is related to international agreements.

Sub-paragraph 2 (f)

Below is a list of effective international agreements (8) entered into by the Republic of Lithuania. They provide for both mutual legal assistance and extradition:

– Agreement between the Republic of Lithuania and the Republic of Belarus on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania, the Republic of Estonia and the Republic of Latvia on Legal Assistance and Legal Relations;

– Agreement between the Republic of Lithuania and Ukraine on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Moldova on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

– Agreement between the Republic of Lithuania and the Republic of Kazakhstan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases;

The Agreement between the Republic of Lithuania and the Peoples Republic of China on Legal Assistance in Civil and Criminal Cases, signed in 2000, (came into force 19 01 2002) regulates the rendering of mutual legal assistance in criminal cases. An Extradition Agreement between the Republic of Lithuania and the Peoples Republic of China was signed on 17 06 2002.

The Agreement between the Republic of Lithuania and the Republic of Azerbaijan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, signed in 2001 (the Agreement was ratified by the Seimas of the Republic of Lithuania on 28 05 2002 but has not yet come into force), regulates the rendering of mutual legal assistance in criminal cases and provides for extradition.

The Agreement between the Republic of Lithuania and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters of 1998 (came into force 26 08 1999) regulates the rendering of mutual legal assistance in criminal cases. The Extradition Agreement between the Republic of Lithuania and the Government of the United States of America was signed in 2001. Ratified by the Seimas of the Republic of Lithuania on 22 01 2002, it has not yet come into force but is applied in practice on an agreement between the parties.

The current Code of Criminal Procedure and the new Code of Criminal Procedure (not yet in force) approved on 14 03 2002 set no timeframe within which a request for judicial assistance from competent institutions of foreign countries must be met in Lithuania. In practice judicial assistance requests from foreign courts are implemented in Lithuania within a month on average.

Sub-paragraph 2 (g)

On 30 May 2002, the Seimas of the Republic of Lithuania adopted Decision No IX-911 by which it approved the Program for the Development of the State Border Protection System. The Program pursues the following aims: to ensure the legal regime of the state border and the border zone; to implement the EU integration-related requirements; to ensure a constant readiness to neutralize external risk factors and potential threats on the border which are conditioned by geopolitical environment and which might pose a threat to Lithuania's national security.

Bearing in mind the future membership of the European Union, the land border of the Republic of Lithuania with other EU candidate states is treated as the future internal border of the European Union (henceforth – future internal border). The land border with other states and the sea border are treated as the future external border of the European Union (henceforth – future external border) The priority direction in the development of the state border protection system is strengthening of the protection of the future external border.

It is envisaged to implement in practice the requirements of the Schengen *acquis* vis-à-vis the control of the external borders. This primarily means preventing unauthorized border crossing and ensuring control of the land border with the Republic of Belarus and land and sea border with Russian Federation.

It is envisaged to ensure the most effective use of the acquired (installed) equipment, to intensify the mobile patrols, and enhance the rapid reaction capacity to events on the border. With that regard, it is intended to establish and mark the land border protection zone; to establish the procedure for issuing permits for staying within the state land border protection zone; to build patrol roads along the border; to set up border guard stations in places where most violations are committed; to build barriers; to install surveillance equipment and perimeter alarm systems; to employ mobile thermovisual equipment and air craft. It is also intended to make more use of dogs during the patrols.

A radio wire and computer communications system to ensure effective control is being developed currently.

To ensure a round the clock detection, recognition and surveillance of all the objects in the territorial sea and neighboring waters in all weather conditions, a wider use of the navy and coast surveillance and of the infrastructure of other institutions and economic entities is envisaged.

The existing information system will be enhanced. Modern monitoring, counterfeit document detection and radiation monitoring equipment will be installed. It is also envisaged to introduce technologies that will regulate transport flows at the border crossing points and ensure that check points are not circumvented and that border checks are not evaded in any other way; these measures will guarantee the implementation of international standards with regard to border checks of persons and transport on the state border.

Sub-paragraph 3 (d)

On 14 June this year, the Ministry of Justice, in accordance with the rules of procedure of the Government, submitted to the Government draft legal acts necessary for the ratification of the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. On 2 July, 2002, the Ministry of Transport, in accordance with the rules of procedure of the Government, submitted to the Government draft legal acts necessary for the ratification of the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the 1988 Protocol for the Suppression of Unlawful; Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. Since some of the actions referred to in the above Convention and Protocol are not criminalized in the Criminal Code, a draft law on the amendments to the Criminal Code will have to be prepared at the nearest future. It is to be mentioned that by now an authentic translation into Lithuanian of the 1999 International Convention for the

Suppression of Financing of Terrorism is available. Besides, the Ministry of Justice is undertaking a screening of the existing national legislation as to its compliance with the provisions of the said Convention. This analysis will lead to a decision on whether there is a need to introduce changes and amendments to the existing legislation of the Republic of Lithuania. The analysis will also help clarify the issue of the possible timeframe for the ratification of the Convention.

Sub-paragraph 3 (e)

Bilateral agreements on legal assistance, concluded by the Republic of Lithuania, which include provisions on extradition, do not identify concrete extraditable offences. Under these agreements persons are extradited for acts which are regarded as crimes under the laws of both parties and which are punishable by deprivation of liberty for a period of more than one year (6 months in some cases) or by a more severe penalty. Thus, these agreements link the possibility of extradition with the criminalization and punitivity of certain acts by deprivation of liberty under the laws of both states rather than with a specific type of offence. Besides that, taking into consideration the provisions of the bilateral legal assistance agreements mentioned above and the fact that, under the Criminal Code, a terrorist act is punishable by much more severe penalties than deprivation of liberty for a period of one year, a conclusion can be made that the offences set forth in the relevant international conventions and protocols relating to terrorism fall within the scope of application of bilateral legal assistance agreements to which the Republic of Lithuania is a party.

Article 224 of the Code of Criminal Procedure stipulates that in cases when, under international agreements to which the Republic of Lithuania is a party, there are grounds for extradition, a Prosecutor of the Prosecutor General's Office must send a request to that effect to the Vilnius District Court. The judge must hold a hearing with the participation of the person, on which request for extradition has been received, his defense lawyer and the prosecutor within five days after application was submitted. In cases when the judge decides to satisfy the prosecutor's request, he must hand down a ruling to extradite the person in question to the law enforcement institutions of another state, while in the case of refusal to satisfy the request he must hand down a ruling to refuse to extradite the person in question to the law enforcement institutions of another state. The person with relation to whom the ruling has been made, or his defense lawyer or the prosecutor have the right to appeal against the ruling in the Lithuanian Court of Appeal. A judge of the Court of Appeal must hear the appeal within the period of two weeks of its submission. For this purpose, a hearing may be held with the participation of the interested person and his defense lawyer, or only the lawyer. The ruling by the judge of the Court of Appeal is final and conclusive.

Sub-paragraph 3 (f)

Currently, work is ongoing on the new draft law that will integrate the existing Law on the Refugee Status and the Law on the Legal Status of Aliens. The new law is being drafted in compliance with the requirements of EU legislation and international conventions. It will stipulate preventive measures to ensure that individuals do not abuse refugee status. Under the present Law on the Refugee Status, the State Security Department screens the asylum seekers with the view to establishing whether they do not constitute a threat to the security of the state. If it is established that an asylum seeker constitutes a threat to the state, the State Security Department sends the information to that effect to the Migration Department under the Ministry of Interior, so that such a person is not granted asylum and is deported from the country.

Sub-paragraph 3 (g)

Paragraph 2 of Article 222 of the Code of Criminal Procedure stipulates that citizens of the Republic of Lithuania or foreigners may not be extradited if the person is being prosecuted for a crime of political nature. Paragraph 4 of the above Article stipulates, however, that in cases where an international agreement to which the Republic of Lithuania is a party provides for other conditions, grounds and procedure for granting extradition

than the one stipulated in the Code of Criminal Procedure, the provisions of the international agreement will prevail. Thus the Code adheres to one of the universally recognized principles of international law – the precedence of international law over domestic law. Article 3 of the European Convention on Extradition of 1957 stipulates that if the requested Party regards the offence in respect of which extradition is requested as a political offence or as an offence connected with a political offence, it may not extradite the person. The same rule is applied if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, o that that person's position may be prejudiced for any of these reasons. Thus, in every concrete case the court should decide whether the offence in question is of political nature, or not, and make an appropriate ruling on the extradition of the person.

It should be noted that paragraph 3 of Article 71 of the new Code of Criminal Procedure approved on 14 of March, 2002 (has not yet come into force) stipulates that a citizen of the Republic of Lithuania or a foreigner may not be extradited (a wording similar to that used in the Convention) if the person is prosecuted for an offence of political nature. This discretionary provision of the Code of Criminal Procedure ("may not be extradited") means that even when the above mentioned grounds for not granting extradition with regard to citizens of the Republic of Lithuania and foreign countries exist, the court, having taken into consideration the circumstances, will be able to hand down a ruling to grant extradition of such persons to a foreign state. Thus the Code leaves wider discretion to the court.

Paragraph 4

The relevant institutions of Lithuania are comprehensively addressing the concerns related to all the phenomena listed in Paragraph 4 and are exchanging information and co-operate in this process.

Other matters

Lithuania provides the organizational charts of its police, migration control, customs, taxation and financial supervision authorities.

The translation of the Lithuanian Government's Resolution No. 820 relative to the implementation of UN Security Council Resolution 1388 (2002) and 1390 (2002) is annexed to this report.

United Nations S/2002/1020

Security Council

Distr.: General
13 September 2002

Original: English

Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/816).

The Counter-Terrorism Committee has received the attached supplementary report from Iceland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

02-59285 (E) 300902

Annex

Letter dated 30 August 2002 from the Permanent Representative of Iceland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In response to your letter dated 7 June 2002, I have the honour to enclose herewith a supplementary report from Iceland to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Thorsteinn **Ingólfsson**
Ambassador
Permanent Representative

Enclosure

Iceland's second report to the Counter-Terrorism Committee established pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 on international cooperation to combat threats to international peace and security caused by terrorist acts

29 August 2002

Introduction

Since Iceland submitted its report on 27 December 2001 it has ratified the International Convention for the Supression of Terrorist Bombings of 15 December 1997 and the International Convention for the Supression of the Financing of Terrorism of 9 December 1999. The Icelandic Penal Code (IPC) has consequently been amended (the Amendment) in order to fulfill the obligations of Iceland under these conventions. The purpose of the Amendment was also to enact into the Penal Code the substantive part of Security Council Resolution No. 1373/2001.

The Amendment, Act No. 99/2002, entered into force on 10 May 2002. To a large extent, it will supersede the Public Announcement made on 14 November 2001. This Announcement was regarded as a temporary instument until the Penal Code would be amended. An amendment of the Public Announcement is now under consideration.

The Outline of the Amendment

1. Icelandic criminal jurisdiction

a. Article 6 (13) provides that IPC shall apply to acts which are within the scope of the International Convention for the Supression of Terrorists Bombings regardless of were the acts are committed.

b. Article 6 (14) contains similar provisions for acts within the scope of the International Convention for the Supression of the Financing of Terrorism.

2. Terrorism

Under Article 100 c terrorism is criminalized, subject to penalty of a maximum of life in prison. In order to fall under the scope of Article 100 a, acts committed must fulfill several criteria or conditions. Their purpose(s) must be at least one of the following:

a. To cause considerable fear among the public;

b. To force Icelandic authorities, foreign authorities or international organisations to take action or to remain passive;

c. To weaken or cause harm to constitutional, political, economical or social foundations of any state or international organisation.

Acts must involve at least one of the following crimes which are subject to penalty according to the IPC:

a. Manslaughter;

b. Assault;

c. Deprivation of liberties;

d. Threat to traffic safety, causing disorder to public transport or causing considerable damage toproperty, and be committed in such way that they threaten human life and and could cause considerable damages to property;

e. Hijacking of aircraft or causing threat to people staying in international airports;

f. Arson, causing explositions, circulation of dangerous gases, causing of flooding, shipwreck, accident or failure of trains, cars or aircraft, general shortage of drinking water or contaminating water sources or water pipes or poisioning or placing dangerous substances in merchandise or objects for public use.

It is a further condition that the acts, considering their nature and circumstances when and where they were committed,must have the potential possibility to seriously harm a state or international organisation.

Under this article it is also subject to same penalty to threaten to commit terrorist acts.

3. Financing of Terrorist Acts.

Article 101 b applies to the financing of terrorist acts and terrorist groups. The article declares it as criminal activity to support, both directly and indirectly, by granting money or other financial means to a person, association or group of people that aim to commit terrorist acts as defined in Article 101 a. Furthermore, it is unlawful to provide or collect capital for such person, association or group of people or make capital available to them in any other way.The penalty for committing these kinds of acts is a maximum of ten years inprisonment.

4. Support to Terrorist Groups

Article 100 c makes itsubject to penalty to assist, by words or actions, persuasion, motivation or by some other means to support the criminal acts described in Articles 100 a and 100 b or to express support for the policy of an association or group which have committed such crimes as described in Articles 100 a and 100 b and which activities or policy imply that such crimes are committed. The maximum penalty for such crimes is six years imprisonment.

With reference to sub-paragraphs as stated in CTC letter of 7 June 2002 addressed to the Permanent Representative of Iceland:

Sub-paragraph 1 (a)

Act No. 5/1969 regarding the implementation of Security Council Resolutions grants the Icelandic government the permission or power to implement Security Council Resolutions by Public Annoncements when the government deems it necessery in order to make the contents of the resolutions binding within Icelandic territory and jurisdiction. The Act was enacted in order to facilitate Iceland's fulfillment of its obligations as a member state of the United Nations.

The Act makes it subject to penalty to disregard or act against the provisions of such Public Annoncement. The maximum penalty is two years imprisonment. The Government of Iceland has made use of Act No. 5/1969 on several occations but hitherto nobody has been sentenced under the Act.

Public Announcement No 867/2001 was intended as a temporary measure, as stated above. It prohibits Icelandic citizens, Icelandic entities, foreigners who stay in Iceland and foreign entities engaged in activities in Iceland to collect money or other kinds of financial means for those who engage in terrorist acts as such activities are criminalized under then existing IPC. It should be pointed out in this connection that the Announcement was published before the Amendment was made to the IPC.

The Announcement also prohibits those persons and entities mentioned above to become bailees for terrorists or give them any kind of financial advice. Bailees are also prohibited to hand over to terrorists money or other financial means.

Furthermore, according to the Public Annoncement it is is obligatory for natural or legal persons who are authorize to provide financial services to the public to report suspicious transactions that might be linked to terrorist activites to the National Commissioner of the Icelandic Police.

Public Announcement No. 867/2001 provides that persons and legal persons authorized to provide financial services to the public are under legal obligations to report suspiscious transactions that might be linked to terrorists. According to Icelandic law only authorized persons or legal persons can undertake transactions of money and other financial means for the public. Transactions in this respect apply to a wide range of activites and not only to traditional banking services.

Sub-paragraph 1 (b)

As stated above, Iceland has ratified the International Convention for the Suppression of the Financing of Terrorism and the IPC has been amended accordingly.

Sub-pararaph 1 (c)

Under the provisions of the Act on Public Proceedings No. 19/1991 the Police has the duty to take into its custody anything that might have been gained or obtained through criminal activities. The Police is therefore obliged to take action in order to freeze funds of terrorists or terrorist groups due to the fact that the financing of such activities is defined as a criminal act under article 100 b as is further described above.

Sub-paragraph 1 (d)

Based on the provisions of the Act on Measures against Money Laudering No. 80/1993 natural and legal persons authorized to provide financial services to the public inform the National Commissoner of the Icelandic Police of all suspicious transactions. The National Commissioner investigates all such transactions and takes appropriate action when criminal activity is suspected.

The role of the authorized persons is reiterated in Public Announcement No. 867/2001 in connection with the possible financing of terrorism.

Sub-paragraph 2 (a)

It is deemed that that the recruitment of members for terrorist groups in Iceland falls within the scope of Article 100 c of the IPC.

These activities are all within the scope of Articles 100 b and 100 c of the IPC.

Sub-paragraph 2 (b)

The National Commissioner of the Icelandic Police is the central authority of policing in Iceland. He is the highest authority of narcotics control and financial tracing. Furthermore, he has the role of contact person with police authorities in other states and international police organizations.

If necessary, the National Commissioner has close co-operation with the Icelandic Immigration Authority.

Sub-paragraph 2 (c) and (d)

Reference is made to the Amendment of the IPC described above.

Sub-paragraph 2 (e)

In accordance with Articles 100 b and 100 c of the IPC, the terrorists acts listed in sub-paragraph 2 (e) have been criminalized in Iceland. Iceland has criminal jurisdiction to deal with the crimes referred to in the third question in the sub-paragraph as stated in Article (6), (13) and (14) of the IPC, as has been explained.

Sub-paragraph 2 (f)

Hitherto the Icelandic police authorities have received no requests for judical assistance in relation to the financing or support of terrorist acts. According to internal working rules of the National Commissioner of the Icelandic Police such request should be given top priority.

Sub-paragraph 3 (a) and (b)

As has already been stated, the National Commissioner of the Icelandic Police is the highest police authority in Iceland and is the contact person with foreign police authorities. He has engaged in contact with foreign national police authorites in connection with acts as defined in sub-paragraphs 3 (a) and (b) of Security Council Resolution 1373 (2001). However, neither have formal agreements been reached nor has legislation been enacted for these purposes.

Sub-paragraph 3 (c)

Iceland has not concluded any bilateral agreements with the purpose to prevent and supress terrorist attacks and take action against perpetators of such acts. No reqests for concluding such agreements have been received from other states.

Iceland is a party to the European Convention on the Suppression of Terrorism done at Strasbourg on 27 January 1977.

Sub-paragraph 3 (d)

Reference is made to the Report submitted to the CTC by letter of 27 December 2001 from the Permanent Mission of Iceland. Iceland has now become a party to all conventions listed in the Report.

Sub-paragraph 3 (e)

This qestion is not applicable since Iceland has not concluded any bilateral agreements on this matter.

Sub-paragraph 3 (f)

No legislation nor special machanisms are in force in this respect. Icelandic authorities base their decisions on intellegence information gathered from foreign central immigration authorities.

Iceland will become a member of Eurodac in the year 2003.

Sub-paragraph 3 (g)

The policy of Iceland remains unchanged in this respect, and reflects also Iceland's practice with regard to other states.

Paragraph 4

Icelandic police authorities are of course aware of these circumstances. Suspicious cases have been investigated but such connections have not been proven.

Other matters:

The requested organizational chart of the adminstrative machinery will be provided to the CTC at earliest possibility.

United Nations S/2002/1021

Security Council

Distr.: General
13 September 2002

Original: English

Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/624).

The Counter-Terrorism Committee has received the attached supplementary report from the Libyan Arab Jamahiriya submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

02-59521 (E) 041002 081002

Annex

[Original: Arabic]

Letter dated 28 August 2002 from the Deputy Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I am pleased to transmit to you herewith the responses of the Great Socialist People's Libyan Arab Jamahiriya to the comments received from the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) dated 28 September 2001.

(*Signed*) Ahmed A. **Own**
Deputy Permanent Representative

Enclosure

Responses of the Great Jamahiriya to the questions received from the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The note dated 24 May 2002 (S/AC.40/2002/MS/OC.100) of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism contains a number of questions relating to the report of the Libyan Arab Jamahiriya submitted to the Committee on 26 December 2001 on the steps taken by Libya to implement that resolution.

In the following pages we present the questions raised by the Committee and the corresponding responses.

Paragraph 1 (a)

- **Which are the "terms and the circumstances stipulated by the Board of Management of the Central Bank of Libya" that are instrumental in implementing subparagraph 1 (a) of the Resolution?**
- **What penalties apply in case of breach of the regulations issued by the Board of Management of the Central Bank of Libya?**
- **Please provide the CTC with a progress report on the legislation which is currently being prepared in order to counter and prevent money-laundering and trafficking in illegal funds.**
- **Do informal banking networks (e.g. hawala) exist in the Libyan Arab Jamahiriya, either in law or in practice? If so, please outline the provisions regulating such networks.**

Response

Following the issuance of Security Council resolution 1373 (2001) concerning terrorism, the Central Bank of Libya took the following steps:

1. The Central Bank of Libya, in order to cope with money-laundering, established within the Bank a financial information unit to which all banks and financial institutions operating in the Libyan Arab Jamahiriya send reports on suspicious transactions. One of the functions of the unit will be to exchange information with its counterparts in other countries on the basis of international agreements to which Libya is a party or on a basis of reciprocity. This means that all banks and financial institutions operating in the Libyan Arab Jamahiriya are required to create an information unit to combat the laundering of illegal funds; to monitor all operations and transactions carried out by the bank or institution in question or persons dealing with them and suspected of being connected with deposits or transfers of funds of unknown origin; and to report to the information unit of the Central Bank of Libya any relevant data or information.

2. With regard to the penalties imposed in case of violation of the regulations issued by the Central Bank of Libya, the Banking, Money and Credit Act (Act No. 1 of 1993) grants the Central Bank of Libya powers of supervision and control and the authority to issue compulsory directives to all banks and qualifies violations of the

directives so issued as violations of the Act itself punishable by penal sanctions such as imprisonment, fines, confiscation and publication in the media. Moreover, the Governor of the Bank is given the authority to grant the capacity of judicial investigation officers to many of his subordinates. In addition, the circulation, conversion or transfer of or dealings in currency in violation of the rules laid down by the Central Bank of Libya are considered under the Act as customs smuggling crimes which customs officials are granted the authority to prosecute.

3. A bill on combating money-laundering has been prepared and the necessary steps are being taken for its submission to the Basic People's Congresses empowered to issue laws in Libya so that the related act may be promulgated at their next session.

4. Regarding the question of whether Libya has promulgated any laws on informal banking networks (hawalat), the relevant Libyan legislation prohibits any transfer of funds otherwise than through banks authorized to conduct banking in accordance with the rules, principles and conditions established by the Central Bank of Libya mentioned in the previous report to the Committee.

Paragraph 1 (b)

- **What are the offences and penalties provided for in the Libyan Arab Jamahiriya with respect to the activities listed in this subparagraph?**

Response

The bill on combating money-laundering includes penalties such as imprisonment, a fine equal to the amount of the funds involved in the offence and the confiscation of the funds laundered or intended to be laundered. It also provides penalties for establishments or institutions that participate in the crime of money-laundering or through which such offences are committed. The penalty consists of a fine equal to half the amount of the funds involved in the offence together with the confiscation of the funds. Under this bill, the governor of the Central Bank of Libya would have the power to freeze accounts and funds suspected of being connected with money-laundering offences in addition to executing orders for the seizure or attachment of funds through the Central Bank of Libya if such funds are held in a financial institution licensed by the Bank.

Paragraph 1 (c)

- **Please describe the existing or planned procedure for freezing funds, financial assets, etc., of persons or entities suspected of terrorist activities as distinct from freezing funds, financial assets, etc., of persons suspected of engaging in money-laundering activities.**
- **What is currently the legal basis for the freezing of assets and accounts of those proved to have been involved in criminal acts?**
- **Please describe the procedure leading to the freezing of funds, financial assets and economic resources.**
- **The Libyan Arab Jamahiriya has initiated the constitutional procedure to become a party to the International Convention for the Suppression of the Financing of Terrorism and will therefore "enact supplementary**

legislation in keeping with the obligations imposed" by the Resolution. The CTC would be grateful to receive a progress report regarding that supplementary legislation.

Response

As communicated to the Secretary's Department of the International Monetary Fund by letter No. RSD 300/1 of the Governor of the Libyan Arab Jamahiriya, dated 4 May 2002, no money-laundering operations or offers of transactions whose origins are suspicious or which are connected with terrorist activities have been noted in the Libyan banking sector. Nevertheless, in the event that any suspicious transaction is observed or any report is received on operations involving the laundering of illegal funds or funds connected with terrorist operations or terrorist groups, appropriate legal steps will be taken in accordance with the provisions of the relevant laws in force, one such step being the seizure by the investigating authorities, until the completion of the investigation, of any funds whose origin is suspicious. Under the legislation in force in the Libyan Arab Jamahiriya, any funds whose origin is unknown are considered suspicious until the contrary is proven, which means that the investigating authorities have the power to seize any sums of that nature.

At present, the legal bases for the freezing of funds and accounts connected with persons whose involvement in criminal operations has been proven are found in the Penal Code and the Code of Criminal Procedure, under which such persons are turned over to the judiciary to be tried in accordance with the provisions of those two codes and the other laws in force. As previously mentioned, the accounts or funds involved in such criminal activities are ordinarily frozen pursuant to orders issued by the competent judicial authorities, including the investigating authorities.

Paragraph 1 (d)

– **What preventive controls and surveillance measures has the Libyan Arab Jamahiriya put in place to ensure that funds intended for the financing of terrorism are not transferred through charitable, religious or cultural organizations?**

Response

The activities carried on by religious, cultural and other charitable organizations in Libya are defined by the enactments establishing them, which always contain a restrictive enumeration of their objectives and the ways and means of achieving those objectives. Such enactments also include all the requisite guarantees to rule out any possibility of the misuse of their funds or any redirection of them to purposes and objectives other than those of the charitable organization. In any event, to ensure that such organizations adhere to their objectives and to check the soundness of their financial procedures, their accounts are prepared and their annual balance sheets audited by recognized chartered accountants and auditors in accordance with rigorous standards.

It is important to make sure that any transfer of funds outside the country, whether to charitable organizations or to others, takes place only in accordance with the specific procedures and rigorous controls contained in the Monetary Control Act and designed to prevent the use of such funds for any purposes that are contrary to law.

Paragraph 2 (a)

- **What measures does the Libyan Arab Jamahiriya have in place to prevent terrorists from obtaining weapons in its territory, in particular small arms and light weapons? What is the Jamahiriya's legislation concerning the acquisition, possession and exportation of weapons?**

Response

Libyan Act No. 29/1994, concerning weapons and ammunition, prohibits the acquisition, possession and manufacture of and trade in weapons, ammunition and explosives of any kind by any person not licensed therefor by the competent authority, which is exclusively the Secretary of the General People's Committee for Justice and Public Security (Minister of Justice). Detailed definitions of weapons are provided in lists annexed to the Act and are extended to include edged weapons, such as knives. The Act specifies the procedures for the granting of licences to individuals for the possession of weapons and establishes stringent conditions and restrictions in that regard. It specifies a single entity having the right to import and trade in arms, ammunition and explosives, namely the General Company for Importation of Safety & Security Products, a totally State-owned public corporation. The Act provides for and specifies strict controls relating to the quantity of weapons and ammunition whose importation is permissible, such importation requiring a decision of the Secretary (the Minister). This tight system covers the transport of weapons and ammunition from place to place, such transport requiring written permission from the security authorities clearly stating the quantities of weapons and ammunition for whose transport permission is granted, the entities from and to which they are to be transported, the transport means, the time and the itinerary, as well as any other conditions imposed by public security considerations. The Act establishes the penalty of life imprisonment for anyone who possesses, acquires, buys, sells, delivers, transports or presents any arms, ammunition or explosives for the purposes of trafficking or traffics in them in any manner whatsoever outside of the cases specified in the Act.

The Act also establishes the penalty of imprisonment for the acquisition or possession, without a license issued in accordance with the Act, of any weapons, ammunition or explosives, irrespective of the purpose of such acquisition or possession.

Paragraph 2 (b)

- **Please elaborate on the entity which the Libyan Arab Jamahiriya has selected as a contact point for the exchange of information and for consultation between members of the committee to monitor relations among the western Mediterranean States with regard to terrorism and the criminal police.**

- **Please describe how this committee will be instrumental in implementing this subparagraph.**

- **Please explain how the common understanding was reached by the participants of the discussion group on organized terrorist activities, held in Rome on 9 October 2000, and its impact on the agreement concluded**

between the Libyan Arab Jamahiriya and Italy and how it will influence a similar bilateral agreement in the future.

– **Please provide the CTC with information on the mechanism for cooperation among the various agencies and the authorities responsible for narcotics control, the smuggling of funds and security, with particular regard to border controls and the prevention of the movement of terrorists.**

Response

The Great Jamahiriya joined the Conference of Ministers of the Interior of Western Mediterranean Countries on 21 June 2001. The States members of this group have agreed that each member State should have a single contact point in each security field. On that basis, the contact points in the Great Jamahiriya for terrorism, criminal police and immigration are as follows:

1. *Terrorism contact point*

   Internal Security Branch Manager (Colonel Aun Abdallah Suf)
   Telephone: 00218213608101
   Fax: 00218213608108

2. *Criminal police contact point*

   Director of the General Administration of Criminal Investigation (Brigadier-General Muhammad Bashir Shibani)
   00218213334213, 00218213335337
   Fax: 00218214444694, 00218214444437

3. *Immigration contact point*

   Director of the General Administration of Passports and Nationality (Brigadier-General Muhammad Rimali)
   Telephone: 00218213605567
   Fax: 00218213608949

The monitoring committee or monitoring team of the Conference of Ministers of the Interior of Western Mediterranean Countries is one of the fundamental mechanisms of cooperation among member States. It is the body in charge of preparing meetings of the ministers of the interior, coordinating meetings of experts and contact points in the different fields, following up and evaluating the results of their work and issuing relevant recommendations, in the following areas:

1. Monitoring the degree of cooperation noted among the different contact points and striving to develop that cooperation;

2. Examining the periodic reports presented by the contact points, expressing the related observations and submitting them to the competent ministers;

3. Monitoring and evaluating the system of exchange of information among the different contact points;

4. Holding periodic meetings of contact points or members of the monitoring team whenever needed, such as the meeting of terrorism contact points held in Madrid on 7 February 2002, at which the delegations gave an analytical presentation on the most recent terrorist acts committed in the territory of the member States; a

review was made of the status of signatures and ratifications of the United Nations conventions on terrorism; and resolutions were adopted to facilitate coordination and contacts among contact points in that sphere.

The various security organs and the General Administration for Combating Crime Related to Drugs and Psychotropic Substances are placed under the Secretariat of the General People's Committee for Justice and Public Security; the chief clerk for security affairs of that Administration is in charge of overseeing the progress of work in those organs, under the direct supervision of the Secretary. Consequently, cooperation among those organs takes place, in addition to direct communication and coordination of work among them, through the chief clerk for security affairs, who is in charge of coordinating their work and issuing, whenever necessary, directives defining the powers and duties of each authority within the framework of joint security work.

In the area of border controls, the mechanism of cooperation operates through the General Administration of Border-crossing and Exit/Entry Points, which prepares detailed recommendations governing security operations at borders to ensure complete control at all times and under all circumstances.

Paragraph 2 (c)

– **Please provide examples of any relevant action taken.**

Response

It has been mentioned previously that terrorist acts are deemed criminal, that anyone who perpetrates such acts is a criminal and that Libyan legislation calls for the expulsion of any criminal. Reference has been made to articles 158-225 of the Penal Code and article 16 of Act No. 6/89 on the entry and exit of aliens into and from Libya.

Paragraph 2 (d)

– **Does article 168 of the Libyan Penal Code or any other legal provision in the Libyan Arab Jamahiriya criminalize terrorist acts against foreign citizens?**

Response

Actually, aggression against persons is considered an offence punishable under the law irrespective of whether the person against whom it is committed is a national or a foreigner, for the object of the protection of the law is the human being, regardless of his nationality, origin or religion. This is true whether the aggression is committed against the person, as in the case of crimes against his life or safety (Penal Code, articles 368-379), his dignity (articles 407-424 of the said Code), his freedom (articles 425-437) or his honour (articles 438-443), or whether it is committed against his property, as in the case of theft and other similar offences (articles 444-446). Inasmuch as the crime involves aggression against a right protected by law, it is irrelevant whether the victim of the aggression is a Libyan or a foreigner and no distinction is made between the two. Moreover, as pointed out in our previous response, under the provisions of Book Two, chapter III, of the Penal Code, which relates to felonies and misdemeanours against foreign States, those

offences include aggression against foreign heads of State, which is punishable by imprisonment for a term ranging up to life, depending on the case (article 218); attacks against the freedom of foreign heads of State, the penalty for which is imprisonment (article 219); acts disgracing foreign heads of State in Libyan territory or attacks on their honour, which are punishable by imprisonment for a term of not less than five years (article 220); aggression against representatives of foreign States accredited in Libya, to which the provisions of the three preceding articles apply (article 221); and aggression against the flag of a foreign State or an international organization, which is punishable by imprisonment (article 222). As for article 168, it relates to the offence of recruitment or mobilization against a foreign State or the perpetration of hostile acts against such a State that are likely to expose the Libyan Arab Jamahiriya to the risk of war or the severance of diplomatic relations with the State concerned or to lead to retaliation against it or against its nationals, wherever they may be.

Paragraph 2 (e)

- **Please provide the CTC with a copy of the provisions of article 5 of the Penal Code.**

- **How does the Libyan Arab Jamahiriya intend to criminalize "terrorist acts" as announced in the report?**

Response

A copy of the requested article 5 is attached hereto.

A new draft Penal Code is being prepared and will include crimes qualified as terrorist acts.

Paragraph 2 (f)

- **What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings relating to the financing or support of terrorist acts must be met and how long does it take to implement such a request?**

Response

Requests for judicial assistance in carrying out criminal investigations are complied with immediately after agreement is reached between the judicial authorities in the Libyan Arab Jamahiriya and those in the country concerned. The time required to implement the request is the time it takes for the request to pass through the recognized diplomatic channel, from the General People's Committee for Foreign Liaison and International Cooperation to the General People's Committee for Justice and General Security. Normally, the time required for the procedure of compliance with the request is not more than a few months. The time required for the execution of letters rogatory is the duration of the investigation of the matter in question.

Paragraph 2 (g)

- **How do the procedures for the issuance of identity papers and travel documents prevent the counterfeiting, forgery or fraudulent use of those documents and what other measures exist to prevent their forgery, etc.?**

Response

The procedures in question in this paragraph, which have been referred to in the previous report of the Libyan Arab Jamahiriya, have greatly helped to combat and prevent the forgery and illegal use of identity and travel documents. The creation of a database containing personal information on all Libyans within a system that includes photographs has helped to put an end to all attempts to tamper with such developments. Furthermore, the Libyan Arab Jamahiriya is currently studying the use of advanced technologies for the issuance of tamper-proof travel documents.

Paragraph 3 (a) and (b)

- **Please describe the institutional mechanism which enables Libya to comply with these subparagraphs.**

Response

As indicated in the foregoing response, as early as 1984 the Libyan Arab Jamahiriya created a counter-terrorism office directly subordinate to the Secretary of the General People's Committee for Foreign Liaison and International Cooperation (Minister for Foreign Affairs). Inasmuch as the Libyan Arab Jamahiriya is not a stronghold of terrorist activity, this office has not had any clear-cut role to play despite the fact that it has been in existence for a considerable time. Nevertheless, its role will be activated when and if the need arises.

Paragraph 3 (d)

- **The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on the steps taken in connection with:**
  - **Becoming a party to the instruments to which the Libyan Arab Jamahiriya is not yet a party; and**
  - **Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

Response

Act No. 31 of the year 1369 from the death of the Prophet (2001 a.d.) concerns the ratification of international treaties, conventions and protocols concluded between the Libyan Arab Jamahiriya and other States, as well as within the framework of regional and international organizations, to which the Libyan Arab Jamahiriya was not a party prior to the promulgation of the Act.

The Act provides for the ratification of the following conventions related to the fight against international terrorism, concluded within the framework of the United Nations:

- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly on 9 December 1999, for which an instrument of ratification has been deposited;

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988);

- Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991);

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988), supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (Montreal on 23 September 1971), supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988);

The instruments of ratification of these conventions will be deposited as soon as possible.

Paragraph 3 (e)

- **Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which the Libyan Arab Jamahiriya is a party?**

Response

Agreements concluded by the Libyan Arab Jamahiriya with other States normally contain a provision permitting extradition in the case of offences other than political offences. It is generally recognized, with respect to the Libyan Arab Jamahiriya, that offences are examined in terms of their essence, without heed to the reasons for their perpetration; hence the possibility of extradition in respect of offences relating to terrorism is ensured, since they are not considered political crimes.

Paragraph 3 (f) and (g)

- **How does Libyan legislation ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists as required by subparagraph 3 (g) of the Resolution?**

Response

Under Libyan law, the motive for committing an offence is not considered; consequently it does not constitute grounds for permitting a criminal's action or for divesting such action of its unlawful character. It follows from this that whenever extradition is a necessary measure according to international law or a bilateral agreement or is required by arrangements for the trial of the perpetrator of a criminal act, the motive, whatever it may be, has no effect on extraditability and cannot be adduced as a basis for rejecting the request for extradition. In all this, however, one must take into account the different points of view regarding the definition of the concept of terrorism and the fact that the international community has yet to agree on a standard definition acceptable to all States.

Appendix

Book One

Crimes in general

Chapter I

General Rules

Article 5. Crimes Committed in Foreign Countries

The provisions of the present Code shall also apply to the following persons:

I. Anyone who commits, outside the country, an act which makes him a principal in or accomplice to a crime that takes place in whole or in part in Libya.

II. Anyone who commits any of the following offences:

(a) A felony affecting the security of the State, as provided in Book Two, chapters I and II, of the present Code;

(b) The felony of forgery, as provided in articles 224 and 225 of the present Code;

(c) The felony of counterfeiting money having legal currency in Libya, as provided in article 326 of the present Code;

(d) The felony of slavery, as provided in article 427 of the present Code.

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Security Council

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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/815).

The Counter-Terrorism Committee has received the attached supplementary report from Azerbaijan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 26 August 2002 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Upon instructions of my Government and in response to your letter dated 10 June 2002, I have the honour to convey to the members of the Counter-Terrorism Committee a further report of the Government of the Republic of Azerbaijan. In accordance with paragraphs 3 to 6 of the Counter-Terrorism Committee guidance note of 26 October 2001, the report addresses questions expressed in the above-mentioned letter.

(*Signed*) Yashar **Aliyev**
Permanent Representative

Enclosure

[Original: Russian]

Supplementary report of Azerbaijan to the Counter-Terrorism Committee

- **Subparagraph 1 (a)**

Question: Could Azerbaijan please clarify whether its Counter-Terrorism Act includes provisions dealing with the financing of terrorism? If so, please provide an outline of the relevant provisions.

The 1999 Counter-Terrorism Act of Azerbaijan contains no provisions on the suppression of the financing of terrorism. At the time of the adoption of the Act, Azerbaijan was not a party to the International Convention for the Suppression of the Financing of Terrorism (ratified on 1 October 2001). All the necessary legislative steps are currently being taken to implement its provisions. In particular, the law on counter-terrorism now being drafted by the Milli Mejlis (Parliament) contains a definition of the financing of terrorism as well as special measures designed to suppress it, including the detection, freezing, seizure and confiscation of funds intended for the financing of terrorist acts.

Nevertheless, it should be pointed out that article 1 of the above-mentioned Counter-Terrorism Act defines "terrorist activities" and indicates that an activity linked with the wilful financing of a terrorist organization or terrorist groups or the provision of other assistance to them constitutes terrorist activity in another form. In accordance with article 2 of this Act, the legislation on counter-terrorism consists of the Constitution of the Republic of Azerbaijan, international treaties to which Azerbaijan is a party, this Act and other legislative acts of the Republic.

As already indicated above, on 1 October 2001 the Parliament of the Republic of Azerbaijan adopted the Act on the Accession of the Republic of Azerbaijan to the International Convention for the Suppression of the Financing of Terrorism, and on 23 October 2001, this Act, having been published in the *Official Gazette*, was designated for implementation.

Under articles 148 and 151 of the Constitution of the Republic of Azerbaijan, international treaties to which Azerbaijan is a party constitute an integral part of the legislative system of Azerbaijan and in the event of any conflict between the country's normative legal acts and those international treaties, the norms embodied in the international treaties shall apply.

Thus, in the light of the foregoing it may be concluded that the International Convention for the Suppression of the Financing of Terrorism is an integral part of the legislative system of Azerbaijan and is in force in its territory.

Question: Please provide a detailed outline of the relevant provisions of the Counter-Terrorism Act that cover the acts required by the resolution to be criminalized.

The provisions of the legislation of Azerbaijan on the suppression of crimes linked with terrorism referred to in resolution 1373 are as follows.

Under articles 1, 17 and 19 of the Counter-Terrorism Act, terrorist activities also include the financing of terrorist entities or terrorist groups or the provision of other assistance to them: persons who participate in terrorist activities bear responsibility in the manner prescribed in the legislation of Azerbaijan: on grounds of a link with terrorist activities, an entity (its affiliate or mission) operating in the territory of Azerbaijan, may, in the manner established by the legislation of Azerbaijan, be dissolved on the basis of a court decision.

Under articles 17 and 21 of the Counter-Terrorism Act, officials and citizens who violate the Act bear responsibility in the manner prescribed by the legislation of Azerbaijan; persons who participate in terrorist activities bear responsibility in the manner prescribed by the legislation of Azerbaijan; in the interests of upholding human rights and freedoms and safeguarding State and international security, persons who commit terrorist acts or participate in the commission of such acts, wherever such acts may have been planned or committed, are brought to trial and sentenced in accordance with the law of Azerbaijan and under international treaties endorsed by Azerbaijan, or may be extradited to a foreign State stand trial or to serve their appointed sentence.

The criminal legislation of Azerbaijan provides for responsibility for terrorism in article 214 of the Criminal Code of Azerbaijan. Under this legislation, persons who finance terrorism bear criminal liability for participation in terrorism and are tried in accordance with the provisions of article 214. The special provisions of the Criminal Code (articles 31-34) that deal with the conceptions, types of participation and responsibility of those who participate preclude the legal possibility on the part of such persons of evading responsibility. The criminal legislation of Azerbaijan defines participators as those who commit, organize or instigate crimes or serve as accomplices in their commission, whatever the circumstances may be regarding the persons who have financed terrorism.

The question of a person participating in a terrorist act against a public or government agent (article 277 of the Criminal Code) is resolved in the same way as in the case of a person participating in any other crime specified in the Criminal Code of the Republic, insofar as the provisions on such participation are identical.

It is clear from the above that the absence of any special article in the Criminal Code establishing criminal liability for the financing of terrorism does not exempt persons guilty of such acts from criminal liability.

On the basis of article 12.1 of the Criminal Code, citizens of Azerbaijan and permanent residents of Azerbaijan who are stateless and who commit crimes beyond the borders of Azerbaijan are subject to criminal liability under the Criminal Code of Azerbaijan, if such acts are considered a crime in Azerbaijan and in the State in whose territory the act was committed, and if such persons have not been tried in the foreign State.

Article 12.3 of the Criminal Code states that foreign nationals and stateless persons who commit such crimes as terrorism, the hijacking of aircraft, the seizure of hostages, the illegal diversion of narcotic drugs and psychotropic substances, the production or sale of counterfeit money or securities, attacks against persons or organizations enjoying international protection, and other crimes the liability for which flows from the international agreements concluded by Azerbaijan, are subject

to criminal liability and punishment in accordance with the Criminal Code of Azerbaijan, without regard to the place where the crimes were committed.

As is seen from the foregoing, the criminal legislation in force in the Republic provides the necessary legal basis for the trial and sentencing of criminals for actions involving the financing of terrorism. Moreover, these provisions also exclude the possibility of the granting of asylum to such persons or the use of the territory of Azerbaijan for the commission of terrorist acts.

Question: Please provide a progress report on the refinement of the Azerbaijan legislation dealing with counter-terrorism.

The refinement of national legislation dealing with counter-terrorism is being carried out in various ways. First, the adoption of a new, special act on counter-terrorism is under consideration. This act will comprise various aspects of combating organized terror. They will include measures to combat the financing of terrorism, the granting of legal assistance, the protection of persons assisting in the suppression of terrorism, the extradition of criminals, etc. Secondly, with a view to ensuring the inevitability of bringing criminals, including terrorists, to justice, in 2001 the Act on Extradition of Criminals was adopted. Under this Act, it is forbidden to characterize the actions of terrorists as political crimes, thereby ensuring their extradition to stand trial. In addition, in the event of refusal to extradite terrorists on grounds provided by the legislation in force, they may be sent for trial under the Criminal Code of Azerbaijan. In the case of terrorism, as in the case of other international crimes, the legislation of Azerbaijan proceeds from the principle of *aut dedere aut judicare (*either extradite or send for trial). Thirdly, the new criminal legislation of Azerbaijan not only establishes responsibility for terrorism but also lays down a universal jurisdiction for it. Under article 12.3 of the Criminal Code of Azerbaijan, persons who commit terrorist acts, regardless of the place of commission of the crime, may be tried and sentenced on the basis of the said Criminal Code.

A new act on counter-terrorism is currently being drafted (see subparagraph 1 (a)) which will provide for a whole range of measures to combat the financing of terrorism and to ensure international cooperation in the granting of legal assistance in matters of terrorist crimes, the extradition of terrorists, the protection of persons who assist in the administration of justice, etc. In addition, the adoption of measures for the suppression of the financing of terrorism will affect financial and banking laws. Measures will be taken to uncover and freeze funds that could be used for the commission of terrorist acts. It is also proposed to draft a special act on the laundering of funds derived from criminal activities.

Since article 5 of the International Convention for the Suppression of the Financing of Terrorism, in addition to criminal and civil liability, also establishes administrative liability, it seems appropriate to make the corresponding amendments to the Code on Administrative Violations, bring the Taxation Code into line with article 13 of the Convention, define the specific types of liability in article 17 of the Counter-Terrorism Act in accordance with the Convention, and introduce the corresponding amendments, taking into account the sixth preambular paragraph and other articles of the Convention, into the normative legal acts on charitable activities, public associations, banking activities, currency regulation and securities.

- Subparagraph 1 (b)

Question: Please explain whether it is proposed to include specific provisions in the Criminal Code to criminalize the financing of terrorism as a consequence of Azerbaijan becoming a party to the International Convention for the Suppression of the Financing of Terrorism.

Ratification of the International Convention for the Suppression of the Financing of Terrorism and the adoption at en early date of the Counter-Terrorism Act make it necessary to criminalize the financing of terrorism. In that connection, the requisite amendments will be made in the near future to the Criminal Code of Azerbaijan.

In particular, following the entry into force of the Act on the Accession of the Republic of Azerbaijan to the International Convention for the Suppression of the Financing of Terrorism, pursuant to Decree No. 818 of 11 October 2001 of the President of the Republic of Azerbaijan relating to bringing the existing legislative acts into line with the International Convention for the Suppression of the Financing of Terrorism, the Ministry of Justice of Azerbaijan drafted a law and submitted it to higher authorities. It provides for the addition to the Criminal Code of Azerbaijan of a new article establishing liability for the financing of terrorism, as well as for the collection and provision of funds for such purposes.

Question: Do the instructions issued by the Central Bank of Azerbaijan to the financial institutions have the force of law?

Under article 3.4 of the Act on Normative Legal Acts of 26 November 1999, the regulations, instructions and directions of the National Bank of Azerbaijan — which, in accordance with the National Bank Act and the Act on Currency Regulation, is an organ of bank control and currency regulation — apply to acts of a normative character and therefore require mandatory implementation by all financial institutions to which they are addressed. The instructions of the National Bank of Azerbaijan are mandatory after they have been registered by the Ministry of Justice and published.

Question: Are financial institutions, intermediaries outside the main financial sector (e.g. lawyers) and other natural or legal persons required by law to report suspicious transactions to the relevant public authorities? If so, what are the penalties for non-compliance? If not, do the proposed amendments address this issue?

In accordance with the legislation governing the activities of natural or legal persons, such persons are required, should the grounds exist, to inform the relevant State authorities of suspicious transactions. Failure to report on known grave or particularly grave crimes that were being planned or have been committed, as well as wilful concealment of such crimes, entails criminal liability in accordance with article 307 of the Criminal Code of Azerbaijan. In addition, officials who use their official position out of personal interest to the detriment of the interests of service or fail to perform or improperly perform their duties or manifest an unscrupulous or neglectful attitude towards their duties may, as prescribed by law, be brought to justice in accordance with articles 308 and 314 of the Criminal Code of Azerbaijan.

Depending on the nature of the violations, they may be punished by disciplinary, financial or administrative action.

Pursuant to article 42 of the Notaries Act of Azerbaijan, a notary or other official who, while performing a notarial act, becomes aware of violations of the law in connection with the performance of such an act, is required to inform the relevant institution, enterprise, organization or prosecutor's office so that appropriate measures may be taken. If the authenticity of the document submitted is in doubt, the notary or other official performing the notarial act must submit the said document for expert examination.

Information on contracts concluded by natural or legal persons indicated in the list of terrorists and terrorist entities prepared by the Security Council Committee in implementation of Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) must be transmitted by the financial intermediaries to the relevant State authorities. It should also be noted that the Act on Investigative Activities provides law-enforcement bodies with the possibility of obtaining the relevant operational information in this regard.

Following the amendments and additions to the Currency Regulation Act, information concerning the conveyance across the Azerbaijani frontier of currency (funds in currency form) in an amount exceeding the equivalent of US$ 50,000 (fifty thousand) must be transmitted to the relevant State bodies within seven days.

- **Subparagraph 1 (c)**

Question: Please outline the current procedure to freeze funds, financial assets and other economic resources of persons and entities with links to terrorism.

In accordance with the Code of Criminal Procedure of Azerbaijan, the seizure of property is carried out with a view to ensuring that civil action may be taken and the property confiscated in cases provided for by criminal law, and entails preparing an inventory of the property and barring the possessor or owner from taking any action vis-à-vis the property and, where necessary, from using it. The seizure of bank deposits entails the cessation of any operations involving them. The seizure of property may be effected only in such cases where the material gathered in the criminal case provides sufficient grounds for such action. The seizure of property is carried out, as a rule, on the basis of a court order. In cases that brook no delay, where there is specific information enabling the conclusion to be drawn that property or articles or funds acquired by criminal means may be destroyed, damaged, corrupted, concealed or alienated by the person who committed the crime, to the detriment of any ongoing civil action, the investigator may seize the property in the absence of a court order, while observing the requirements of the Code of Criminal Procedure.

As to the direct procedure of freezing bank accounts, action is taken as follows: in the event that bank accounts of persons suspected of terrorism are tracked down, such information is submitted without delay to the National Bank of Azerbaijan. The National Bank, in turn, transmits the information to the relevant law-enforcement bodies and branches of the Ministry of National Security, and subsequently, based on a court decision, the accounts are frozen. It should be noted that bank accounts of persons suspected of having links to terrorism, as already indicated, are frozen on the basis of a court decision, and in practice, in the

implementation of such decisions the National Bank generally transmits them to all banks of the Republic.

- **Subparagraph 1 (d)**

Question: Can non-resident persons and entities hold funds and financial assets in Azerbaijani financial institutions?

Under the Act on Banks and Banking Activities, relations in Azerbaijan between credit organizations and their clients are based on agreements. A credit organization is not entitled to determine and control the manner of use of funds by its clients, or to restrict in a way not provided for by legislative acts or agreements the right of clients to utilize funds at their discretion. The credit organization has the right to open and operate accounts of natural and legal persons, and to effect settlements in respect of accounts of such persons, including corresponding credit organizations, upon their instructions. The credit organization's depositors may be Azerbaijani citizens, foreign nationals and stateless persons. Depositors may have access to their deposits, receive interest income from them, and carry out clearing operations.

Question: What laws, practical controls and surveillance measures exist, apart from registration, to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted to other purposes, in particular, the financing of terrorism?

The Ministry of National Security and other law-enforcement bodies of Azerbaijan conduct the necessary investigations with regard to entities (including humanitarian organizations) suspected of links with terrorism or of possibly of rendering it support. As a result of these measures the activities of such entities, including their economic activities, are invalidated. Thus, beginning with the year 2000, the Ministry of National Security carefully investigated the missions of certain charitable associations that carry on activities in Azerbaijan, and on the basis of the outcome of those investigations, the Ministry of Justice denied the said organizations state registration on the grounds that they were engaging in religious propaganda in violation of their official status and that they were participating in the financing of certain terrorist-oriented groups and dispatching them to areas of conflict.

In addition, in order to prevent income derived from religious, cultural or charitable objectives from being diverted to the financing of terrorism, a new law on banks was drafted, laying down conditions for the identification and licensing of clients.

Furthermore, pursuant to Decree No. 25 of 3 July 1998 of the Chairman of the State Customs Committee adopted by the State Customs Committee and registered with the Ministry of Justice concerning the implementation at frontier-crossing points of Azerbaijan of Decision No. 95 of 28 April 1998 by the Cabinet of Ministers of Azerbaijan relating to the regulations for the conveyance by natural persons across the frontier of Azerbaijan of national currency of Azerbaijan, securities denominated in the national currency and other currencies, a certificate (GA-5) is issued for currency brought into Azerbaijan in amounts exceeding US$ 10,000 (ten thousand). In accordance with decree No. 013 of 13 February 2002

of the Chairman of the State Customs Committee concerning currency brought into the territory of Azerbaijan, which was agreed with the National Bank and the Ministry of Taxation of Azerbaijan, sums over US$ 50,000 (fifty thousand) are reported to the National Bank and the Ministry of Taxation.

- **Subparagraph 2 (a)**

Question: Please outline the legal and other measures which regulate the manufacture, sale, possession, storage and transport of weapons and explosives within Azerbaijan.

In Azerbaijan, the legal relationships connected with the movement of official and civilian weapons and ammunition are governed by the Act on Official and Civilian Weapons, which was adopted on 30 December 1997 and put into force by a presidential decree of 21 February 1998. The term "movement of weapons" is deemed to cover the manufacture, import, export, sale, transfer to another person, acquisition, collection, exhibiting, stocktaking, storage, carrying, transport, use, conveyance, withdrawal and destruction of weapons. This Act governs the movement and use of light weapons and firearms. Control over the movement of any particular type of weapon within Azerbaijan is exercised by the Ministry of the Interior and the State Centre for Standardization and Metrology.

Under articles 228-232 of the Criminal Code of Azerbaijan, criminal liability attaches to the unlawful acquisition, transfer, sale, storage, transport or carrying of firearms or components thereof, ammunition, explosive substances and explosive devices.

Under Presidential Decree No. 637 of 4 October 1997 establishing a list of types of activity requiring special authorization (licensing), the manufacture or repair of war materiel, including all types of weapons and ammunition, means of defence, military equipment and components, and the elimination (burial, conversion, etc.) of unserviceable military technology and ammunition are carried out on the basis of licences issued by the Ministry of Defence.

Question: Please explain how international trade in weapons and explosives is regulated by Azerbaijan.

Under paragraph 7.1 of the regulations on import and export operations in Azerbaijan, approved by Presidential Decree No. 609 of 24 June 1997 concerning the further liberalization of foreign trade with Azerbaijan, the import and export of weapons and military technology and components needed for their manufacture, gunpowder, explosive substances, explosive and pyrotechnic devices, nuclear materials, technology, equipment and installations, specific non-nuclear materials and radioactive materials, including nuclear waste, are conducted exclusively on the basis of decisions of the Cabinet of Ministers. Such items may not be exported on credit or by consignment, and this restriction applies in the context of internal trade.

Licences are issued in accordance with the following procedure. Applications for a licence to export a particular type of product must be submitted to the Cabinet of Ministers, which in turn transmits them for verification to the relevant ministries and State organs. Generally these applications are checked by the Ministry of Defence, the Ministry of National Security, the Ministry of the Interior, the Ministry of Health, the State Committee for the Maintenance of Security in Industry and

Mines, the Ministry of the Environment and Natural Resources, the Academy of Sciences, research institutes and other State institutions. A licence may be issued by the Cabinet of Ministers only after receipt from those bodies of a positive response.

Persons engaging in the illegal export or manufacture of weapons are held criminally liable under articles 206 and 279 of the Criminal Code.

Any kind of weapon, including light weapons and firearms, may be imported into Azerbaijan only in such cases where the supplier is a government organization authorized to conduct such operations. Weapons may be imported by enterprises authorized to manufacture, sell or acquire them only after the weapons have been certified and such information has been entered into the Register. Imported weapons and ammunition must bear a stamp and must be marked in accordance with the relevant standards. Any kind of light weapon or firearm produced in Azerbaijan or imported into the Republic must be certified. If there is no agreement with the manufacturing State on reciprocal recognition of certification, weapons imported into Azerbaijan must be certified on the basis of an application submitted by the manufacturer of the imported light weapon or firearm.

The State Centre for Standardization and Metrology issues certificates following satisfaction of certification requirements for light weapons and firearms. The certificate grants the right to circulate the weapons in Azerbaijani territory.

The Republic of Azerbaijan is a party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1 March 1991 (Act of Accession of the Republic of Azerbaijan No. 746-IQ dated 9 November 1999), and is taking a number of measures to comply with its international obligations. In addition, Azerbaijan is a party to the Document of the Organization for Security and Cooperation in Europe (OSCE) on Small Arms and Light Weapons, adopted at the 308th plenary meeting of the OSCE Forum for Security Cooperation on 24 November 2000. As for international cooperation on questions relating to small arms and light weapons, it should be noted that, in addition to the United Nations and OSCE, Azerbaijan has partnership links with the States members of the Euro-Atlantic Partnership Council/Partnership for Peace.

Azerbaijan does not manufacture, import or export nuclear, chemical or bacteriological weapons. The international legal instruments in this field to which Azerbaijan is a party are the following:

- Treaty on the Non-Proliferation of Nuclear Weapons of 1968 (Act of the Republic of Azerbaijan No. 254 of 4 August 1992);
- Final document of 1996 adopted by the States parties to the Treaty on Conventional Armed Forces in Europe (Act of the Republic of Azerbaijan No. 295-IQ of 16 May 1997);
- Agreement between the Republic of Azerbaijan and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Additional Protocol thereto, signed in Vienna on 6 November 1998 (Act of the Republic of Azerbaijan No. 629-IQ of 23 March 1999);
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1992 (Act of Accession of the Republic of Azerbaijan No. 735-IQ of 9 November 1999);

– Comprehensive Nuclear-Test-Ban Treaty of 1996 (Act of the Republic of Azerbaijan No. 551-IQ of 1 December 1998).

European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, signed at Strasbourg on 28 June 1978 (Act of Accession of the Republic of Azerbaijan No. 835-IQ of 17 March 2000).

- **Subparagraph 2 (b)**

Question: Please describe the mechanism to provide early warning to other Member States of anticipated terrorist activity.

Should Azerbaijan receive any information regarding the preparation of a terrorist act against another State, the information would be carefully scrutinized and transmitted, together with a proposal concerning the possibility of offering assistance, to the competent bodies of the State concerned.

The Ministry of National Security of Azerbaijan extends cooperation in the field of counter-terrorism, including the early exchange of information on terrorist activities with the special services of other States on a bilateral or multilateral basis. For example, the Ministry of National Security has signed 14 bilateral agreements and one protocol on cooperation and mutual assistance with the security agencies of 12 States. The provisions of these agreements provide for specific mechanisms for cooperation in counter-terrorism, including early warning transmitted to foreign partners.

As to multilateral cooperation in this field, it should be noted that the Ministry of National Security has signed a protocol (with addenda I and II) for convening a conference of heads of security agencies of the Turkic-speaking States, an agreement on combating organized crime as the basis for the activities of the Council of Heads of Security Organs and Special Services of the States Members of the Commonwealth of Independent States (CIS), a protocol on counter-terrorism, over 20 different protocols on combating terrorism and other kinds of organized crime, including a protocol on cooperation and mutual assistance among the security organs and special services of the States members of CIS in the struggle against terrorist, separatist and other extremist activities carried out under the cover of religious, ethnic or political pretensions, adopted in July 2000 in Kiev at a meeting of the above-mentioned Council.

Paragraph 2.4 of the statute of the Counter-Terrorism Centre of the States members of CIS provides for the creation, on the basis of the unified data bank of the security organs and special services and the data banks of other competent organs of the States members of CIS, of a specialized data bank on:

– International terrorist and other extremist organizations, their leaders and other persons connected with them;

– The nature, dynamics and trends of international terrorism and other manifestations of extremism in the States members of CIS and other States;

– Non-governmental entities and persons providing support to international terrorists.

Azerbaijan, which plays an active role in the Centre's activities, supplies information to the competent bodies of States members of CIS on a regular basis, as well as at the request of those bodies.

With regard to cooperation among the organs of different States, it should be pointed out that the above-mentioned bilateral and multilateral agreements have laid the groundwork for a mechanism for interdepartmental cooperation among States in the field of border control and, the suppression of economic crimes and drug dealing. In particular, these matters were reflected in the Memorandum signed by Azerbaijan and the Ministry of the Interior of the Islamic Republic of Iran for Cooperation on Border Issues and the Fight against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances and Other Kinds of Contraband, and in the Protocol concluded in March 2002 by the frontier troops of the Ministry of National Security of Azerbaijan and the State Department for Frontier Protection of Georgia relating to surveillance, frontier-crossing points and exchange of information. On 29 April 2002, a trilateral agreement was signed in Trabzon by Azerbaijan, Georgia and Turkey on cooperation in the suppression of terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances, the legalization of illegally acquired income (money-laundering), arms smuggling and the arms trade, and other grave crimes.

- **Subparagraph 2 (c)**

Question: Please describe the measures in place in Azerbaijan to deny safe haven to persons accused or suspected of committing terrorist acts.

Pursuant to article 70 of the Constitution of the Republic of Azerbaijan and in connection with generally accepted principles of international law, Azerbaijan grants asylum to foreign nationals and stateless persons.

The Act of 8 July 1999 of Azerbaijan on the Status of Refugees and Forcibly (Internally) Displaced Persons establishes the following:

"Article 2. Cases where the status of refugee shall be denied:

"– To persons who, as established by international law, have committed a crime against the peace, a war crime or a crime against mankind or humanity.

"– To persons who, prior to entering the territory of the Republic of Azerbaijan, have committed outside its borders a grave or particularly grave crime of a non-political nature;

"– To persons found guilty of having committed acts that are contrary to the purposes and principles of the United Nations.

"Article 8. Sending foreign nationals and stateless persons to another country.

"Persons who under the present Act cannot be granted refugee status and asylum may be sent to another country pursuant to the Act of the Republic of Azerbaijan on the Legal Status of Foreign Nationals and Stateless Persons.

"Article 15. Deprivation of the status of refugee and prohibition on the sending, transfer or forcible return of refugees to another country.

"Persons shall lose refugee status in cases where they constitute a threat to State security and public order, where refugee status was obtained by

submitting knowingly false information or false documents, upon deprivation of liberty for a specific period or lifelong deprivation of liberty following a sentence by a court of law which has entered into force for having committed a grave or particularly grave crime."

Under the Decree of 13 November 2000 of the President of Azerbaijan, the procedures for consideration of a petition for the granting of refugee status are as follows:

Citizens of a foreign country or stateless persons desiring to acquire refugee status in Azerbaijan but who lack the requisite documents attesting to their identity or who lack grounds for legal immigration into the territory of Azerbaijan and wish to acquire refugee status shall, in accordance with the norms of international law, conform to the identification procedures followed by the organs of internal affairs — and where necessary, fingerprinting — and prior to verification of the authenticity of the information submitted by them shall remain in a temporary-accommodation centre.

Foreign nationals or stateless persons who submit a petition for refugee status shall fill out a special questionnaire indicating the reasons for their request for refugee status and giving information about their country, place of birth and family circumstances together with details about themselves and members of their family (including persons under their guardianship or tutelage), and shall also submit to the State Committee on Refugees and Forcibly Displaced Persons a travel document or a document establishing identity (foreign passport, travel certificate, etc.).

The authorized officials of the State Refugee Committee conduct an interview with the person submitting the petition for the granting of refugee status.

The interview is conducted on an individual basis and what transpires in the course of it is not published.

During the interview, such persons must disclose the facts underlying the reasons for their request for refugee status, and also shall give an account of their places of residence, routes travelled, reasons for stopping in the territory of other States, particulars of any application submitted for the granting of refugee status in those States or the absence of any such application, and other relevant information.

In the event of a refusal by persons intending to acquire refugee status to communicate information about themselves, or should they knowingly provide false information about the reasons for the request of refugee status, consideration of their petition is terminated without regard to the stage it has reached and, in accordance with the legislation in force, such persons are denied the acquisition of refugee status.

All information provided by persons wishing to acquire refugee status about themselves and their family and everything stated in the course of the interview is noted down in the questionnaire.

The petitions and questionnaires of persons who have applied for the granting of refugee status are transmitted to the Ministry of the Interior and the Ministry of National Security for their consideration.

The Ministry of the Interior and the Ministry of National Security, during a period of one month, conduct the requisite investigation of the individual case and inform the State Refugee Committee of the results obtained.

The new draft counter-terrorism act will be considered a special basis for denial of the granting of refugee status to persons who have been indicted for the commission of terrorist acts or who have previously been tried for such crimes.

- **Subparagraph 2 (d)**

Question: Please outline the legal and other measures available in Azerbaijan to prevent the use of its territory for terrorist acts outside Azerbaijan.

In accordance with the legislation of the Republic of Azerbaijan, the use of the territory of Azerbaijan to commit terrorist [acts] against other States is prohibited.

Under the Constitution and domestic legislation of the Republic of Azerbaijan, not only the direct commission of a terrorist act, but also preparations for such an act, are regarded as criminal offences. As noted earlier in response to subparagraph 1 (a), in accordance with articles 17 and 21 of the Counter-Terrorism Act, persons participating in terrorist activities incur liability under the legislation of the Republic of Azerbaijan: in the interests of ensuring human rights and freedoms and safeguarding State and international security, and on the basis of the legislation of the Republic of Azerbaijan and also of international treaties endorsed by the Republic of Azerbaijan, persons who commit terrorist acts or participate in the commission of such acts, wherever such acts may have been planned or committed, are brought to trial and sentenced or may be extradited to a foreign State to stand trial or to serve their appointed sentence.

Azerbaijan is fulfilling its obligations with regard to early warning and assisting other States with established information about intentions of individuals, groups and organizations to commit terrorist acts against other States both from the territory of Azerbaijan and beyond its borders, by virtue of agreements signed by the Ministry of the Interior and its counterparts in other States. Similar arrangements are also being made in relation to States with which no agreements have been concluded in this area, on the basis of the norms of the relevant international conventions and international law as a whole.

Under the procedure established by the legislation of the Republic of Azerbaijan, the law enforcement bodies engaged in operational, intelligence and detection activities and investigation of existing information on use of the territory of Azerbaijan to commit terrorist acts against other States are also cooperating with their foreign partners. Nevertheless, the territories of Azerbaijan which are still under occupation by Armenia are used both by Armenia itself and by terrorists, terrorist groups and international terrorist organizations, supported by the separatist regime in Nagorny Karabakh, to commit terrorist acts against Azerbaijan and other States.

- **Subparagraph 2 (f)**

Question: Please describe the procedures in Azerbaijan to deal with requests from other member States for assistance in criminal investigations and criminal proceedings.

Legal assistance in criminal matters is provided on the basis of multilateral and bilateral treaties on the provision of legal assistance in criminal matters and extradition, the Code of Criminal Procedure of the Republic of Azerbaijan, and also the Act on Legal Assistance in Criminal Matters.

The legislation of the Republic of Azerbaijan permits the provision of legal assistance in criminal matters both to countries with which it has an international treaty on the matter and to countries with which there is no such treaty. In cases where there is an international treaty, legal assistance is sought under the procedure laid down in the treaty. As of today's date, Azerbaijan is a party to two multilateral treaties (the European Convention on Mutual Assistance in Criminal Matters of 1959 and the Convention of the Commonwealth of Independent States on legal assistance and legal relations in civil, family and criminal matters of 1993) and a number of bilateral agreements (with the Russian Federation, Turkey, Greece, Kazakhstan and so forth).

In the absence of a treaty, legal assistance is requested under the procedure laid down by the act "On legal assistance in criminal matters" and on the basis of existing practice in international law. In accordance with the above-mentioned act, in order to receive legal assistance in criminal cases, the competent body of a foreign State must make a request to the Ministry of Justice of the Republic of Azerbaijan. The request for legal assistance must indicate the following:

- The name of the competent body of the requesting State;
- The name of the competent body carrying out the investigation, inquiry or prosecution associated with the request;
- The object and content of the request;
- Indications of the nature of the crime, description of the facts and classification of the action, text of the relevant criminal law of the requesting State;
- The full name of the person in respect of whom the submission of documents is requested, and information on his place of residence;
- Other information for consideration of the request for the provision of legal assistance;
- Information on the identity and place of residence of the person in respect of whom information and material evidence is requested;
- Information on the identity of the person, establishment of whose whereabouts is sought, and on the presumed whereabouts;
- Description of the place or person to be searched, and also material evidence (objects) to be confiscated;
- List of questions to be put to the person;

- Amount to be paid to the person sought in a foreign State, and information on coverage of costs.

If necessary, in order to provide legal assistance, the Ministry of Justice may request additional information.

The Ministry of Justice or other competent body of the Republic of Azerbaijan fulfil requests for legal assistance under the procedure envisaged in the laws of the Republic of Azerbaijan.

Legal assistance within the area of the Commonwealth of Independent States is provided in accordance with the Convention on legal assistance and legal relations in civil, family and criminal matters of 23 January 1993, which was ratified by the Parliament of the Republic of Azerbaijan on 1 September 1995, and also the Act on the Extradition of Offenders of 19 June 2001.

In accordance with article 5 of the Convention, the competent judicial institutions of the Contracting Parties communicate with each other through their central bodies.

In accordance with article 56 of the Convention, the Contracting Parties undertake, under the conditions envisaged in the Convention, upon request, to extradite persons in their territories to each other for the purposes of prosecution or the execution of a sentence.

The request for extradition (article 58 of the Convention) must contain:

- The name of the requested institution;
- A description of the actual circumstances of the case and the text of the law of the requesting State on the basis of which the action is categorized as a crime;
- The full name of the person who is to be extradited, his nationality, place of residence or stay, and if possible a description of his appearance and other information about his identity;
- An indication of the extent of the damage caused by the crime.

A request for extradition for the purposes of prosecution must be accompanied by a certified copy of the arrest warrant.

A request for extradition for the purposes of executing a sentence must be accompanied by a certified copy of the verdict, with an annotation of its entry into force and the text of the provision of the criminal law on the basis of which the person was convicted. If the convicted person already served part of the sentence, information must also be provided to that effect.

Extradition is not carried out (article 57 of the Convention) if:

- The person whose extradition is requested is a national of the requested State;
- At the time when the request is received, criminal proceedings cannot be initiated or a verdict cannot be implemented under the laws of the requested State because of the expiry of the statute of limitations or for other legitimate reasons;

- In relation to the person whose extradition is requested, a verdict or a decision to close the proceedings on the case was issued in the territory of the requested State for the same crime;
- The crime, in accordance with the laws of the requesting or requested State, is being prosecuted as a private lawsuit (as a claim by the victim).

Extradition may be denied if the crime in relation to which extradition is requested was committed in the territory of the requested State.

In the event of denial of extradition, the requesting State must be informed of the grounds for denial.

- **Subparagraph 2 (g)**

Question: Please provide information on the mechanism for inter-agency cooperation among the agencies responsible for tracking suspicious financial transactions, narcotics control security, and in particular border control.

In the area of the detection of suspicious financial operations, the Ministry of the Interior coordinates its work with the Ministry of Finance, the National Bank and also the relevant structures of the Ministry of National Security.

The campaign against illicit drug trafficking is conducted in accordance with the provisions of domestic legislation. The State bodies responsible for organizing the monitoring of the safe circulation of narcotic drugs, psychotropic substances and precursors, which are required to make constant efforts to control the spread of drug addiction, are the Ministry of Health, the Ministry of the Interior, their special structural sub-departments and other bodies.

In view of the urgency of the problem of controlling illicit trafficking of narcotic drugs, psychotropic substances and precursors, intensive work is being carried out in the Republic of Azerbaijan to establish a legal basis for combating these types of offences.

The tasks of the State bodies in the area of combating drug addiction and illicit drug trafficking are defined by the decree of the President of the Republic of Azerbaijan of 26 August 1996 on measures to combat drug addiction and illicit drug trafficking and the Act of 18 June 1999 on Control of Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors.

The State Programme to combat illicit drug trafficking and the spread of drug addiction, approved by a decree of the President of the Republic of Azerbaijan of 15 July 2000, is a vital document determining the role and tasks of the law enforcement bodies in combating drug addiction and illicit drug trafficking, and also of other State bodies which are responsible for waging a continuous campaign to control the spread of drug addiction and for organizing the monitoring of the safe circulation of drugs. On the basis of the provisions of this Programme and a number of other regulatory instruments, the law enforcement bodies of the Republic are waging a successful and effective campaign against offences linked with illicit drug trafficking and smuggling.

The Act on the Prosecutor's Office provides for monitoring by the prosecutor of compliance with the law during investigation, inquiry, intelligence and detection

activities in relation to cases of this type. Active and effective measures are being taken to prevent and avert drug-related crimes.

The results of the work carried out and the degree of fulfilment of the provisions of the Programme are periodically reviewed at meetings of the State Commission to combat drug addiction and illicit drug trafficking, which is the main coordinating body for interdepartmental cooperation in this sphere.

- **Subparagraphs 3 (a), (b) and (c)**

Question: Please describe the steps taken or proposed to be taken to comply with these subparagraphs.

See answers regarding subparagraphs 2 (b), 2 (d), 2 (f), 2 (g) and 3 (e).

Subparagraph 3 (d)

Question: The CTC would welcome a report, in relation to the international conventions and protocols relating to terrorism, on the progress achieved by Azerbaijan in:

enacting legislation and making other necessary arrangements to implement the instruments to which it is a party;

Azerbaijan is a party to eight international counter-terrorism conventions. Their provisions have been partially incorporated into domestic law, but to ensure fuller implementation of all the obligations that they create, a new counter-terrorism act will be adopted and changes will be made to the criminal, financial and banking legislation.

Azerbaijan has signed the 1957 European Convention on Extradition and the Additional Protocols to that Convention of 15 October 1975 and 17 March 1978, the 1977 European Convention on the Suppression of Terrorism, the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 17 March 1978, the European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972 and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 November 1990. Domestic procedures for the ratification of those instruments are under way.

and becoming a party to those to which it is not yet a party.

The Republic of Azerbaijan is prepared to become a party to the international counter-terrorism conventions which it has not yet signed; that issue is currently being examined.

- **Subparagraph 3 (e)**

Question: Please provide a list of the countries with which Azerbaijan has concluded bilateral treaties relating to anti-terrorism and extradition.

Azerbaijan has bilateral agreements on extradition with the following countries:

1. Russian Federation — agreement on legal assistance and legal relations in family, civil and criminal matters;

2. Georgia — agreement on legal assistance and legal relations in family, civil and criminal matters;

3. Kazakhstan — agreement on legal assistance and legal relations in civil matters;

4. Uzbekistan — agreement on legal assistance and legal relations in family, civil and criminal matters;

5. Kyrgyz Republic — extradition agreement;

6. Lithuania — agreement on legal assistance and legal relations in family, civil and criminal matters;

7. Turkey — agreement on legal assistance in civil, commercial and criminal matters;

8. Bulgaria — extradition agreement;

9. Islamic Republic of Iran — extradition agreement.

With regard to counter-terrorism agreements, the Ministry of National Security of the Republic of Azerbaijan and the Federal Security Service of the Russian Federation have signed a protocol on cooperation in combating international terrorism and a protocol on cooperation and mutual assistance between the security organs and special services of the States members of the Commonwealth of Independent States to combat the phenomena of religious, ethnic and political terrorism, separatism and other extremist action. Relevant agreements have also been signed with the security agencies of Belarus, Ukraine, Moldova, Georgia, Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan, Egypt and Turkey.

Question: Please indicate whether the crimes mentioned in the relevant international conventions and protocols have been included as extraditable offences in the bilateral treaties which Azerbaijan has concluded with other countries.

All the crimes mentioned in the international counter-terrorism conventions are included as extraditable offences in the agreements on extradition and legal assistance.

- **Subparagraphs 3 (f) and (g)**

Question: Please provide an outline of the legal and other measures in force to ensure compliance with these subparagraphs.

See answers regarding subparagraph 2 (c).

- **Paragraph 4**

Question: Has Azerbaijan addressed any of the concerns expressed in paragraph 4 of the resolution?

Azerbaijan engages in international, regional and subregional cooperation to combat international terrorism, transnational organized crime, money-laundering, illicit trafficking in narcotic drugs, psychotropic substances and weapons and illegal

shipments of nuclear, chemical, biological and other potentially lethal materials through its involvement in international organizations and bilateral relations.

The Republic of Azerbaijan is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (No. 356 of 28 October 1992), the United Nations Single Convention on Narcotic Drugs of 1961 (Act No. 550-IQ of 1 December 1998) and the partial agreement establishing the Pompidou Group of the Council of Europe on cooperation to combat drug abuse and illicit trafficking in drugs (resolutions 80 (02) and 80 (15) of the Committee of Ministers of the Council of Europe; Act of Accession by the Republic of Azerbaijan, No. 78-IIQ of 16 February 2001). In December 2000, Azerbaijan also signed the United Nations Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons and against the Smuggling of Migrants.

With regard to regional cooperation, a meeting of GUUAM group (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova) representatives of ministries and departments dealing with safe and effective operation of transport corridors, held in Baku on 7 and 8 November 2001, established guidelines and areas of cooperation. The latter included preventing the use of transport corridors for terrorist, extremist and criminal purposes, combating international terrorism and organized crime, preventing illegal trading in weapons, combating drug trafficking, countering illegal migration, combating the spread of illegal dissemination of dual-use technology, and refining the system for exchanges of operational information between customs services.

The leaders of the States members of the Commonwealth of Independent States adopted an intergovernmental programme of joint measures to combat crime for the period 2000 to 2003 and a programme of the States members of the Commonwealth of Independent States to combat international terrorism and other forms of extremism for the period until 2003. These laid the foundations for cooperation between the Ministry of the Interior of the Republic of Azerbaijan and the law-enforcement bodies of the other States, encompassing a targeted range of organizational and practical measures to prevent the territory of Azerbaijan from being used as a transit point for narcotics bound for Europe and elsewhere, to combat terrorism, illicit trafficking in arms, explosives and radioactive substances, and to combat the laundering of "dirty" money and other forms of transnational organized crime. An agreement on counter-terrorism cooperation between ministries of the interior was signed at the meeting of the Council of the Ministers of the Interior of the Commonwealth of Independent States held in Cholpon-Ata from 6 to 8 September 2001.

On 2 October 1998, within the framework of the Black Sea Economic Cooperation process, the Republic of Azerbaijan signed an agreement on cooperation to combat crime, especially organized crime.

On 7 August 2000, a conference on youth and drug addiction was held in Azerbaijan. It had been organized jointly by the State Commission to combat drug addiction and illicit drug trafficking and the World Assembly of Muslim Youth (Saudi Arabia).

One of the results of Azerbaijan's efforts to strengthen cooperation with European countries to counter organized crime is the country's admission to the South East European Cooperative Initiative (SECI) as an observer on 8 April 2002.

As mentioned earlier, Azerbaijan, Georgia and Turkey signed a trilateral agreement on cooperation in the suppression of terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances, the legalization of illegally acquired income (money-laundering), arms smuggling and the arms trade and other grave crimes in Trabzon on 29 and 30 April 2002.

Bilateral agreements concluded by the appropriate Azerbaijani entities are:

- Agreement between the State Customs Committee of the Republic of Azerbaijan and the Ministry of Revenues of the Republic of Kazakhstan on cooperation to combat smuggling and the violation of customs rules, illicit trade in arms, munitions, explosives and precursors, signed in Baku on 7 April 2000;
- Intergovernmental agreement between the Republic of Azerbaijan and the Republic of Uzbekistan on cooperation to combat crime, signed in Baku on 25 July 2000;
- Agreement between the State Customs Committee of the Republic of Azerbaijan and the State Customs Committee of the Republic of Uzbekistan on cooperation to combat smuggling and the violation of customs rules, signed in Baku on 25 July 2000.

Cooperation agreements to combat trafficking in narcotic drugs have been signed with appropriate entities in the United States, Germany, the United Kingdom, Iran, Egypt, the Gulf States, the Commonwealth of Independent States and other countries. Azerbaijan actively cooperates with the Interpol Bureau in Baku. Action was undertaken with the United Nations Development Programme (UNDP) as part of the project of comprehensive counter-narcotics assistance for 1997 to 1999. Cooperation is currently under way with the Antinarcotizm international research centre and the fund against drug addiction. In particular, the Azerbaijani State entities and non-governmental organizations active in Azerbaijan have received logistical assistance and help with vocational training, scientific workshops/ conferences and consultations have been organized, awareness-raising campaigns targeting the general public, students and military personnel have taken place and assistance has been provided to organize prevention and treatment.

As pointed out in the answer regarding subparagraph 2 (g), the legal basis for combating crimes connected with narcotics is the Presidential Decree of 26 August 1996 on measures to combat drug addiction and illicit drug trafficking, the Act on Control of Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors, the Police Act, the Act on Investigative Activities, the Counter-Terrorism Act and the Act on the Drug Agency and Drug Control, which have been examined by the legal committee of the Council of Europe and in the light of the Criminal Code and Code of Criminal Procedure.

The State Narcotics Control Committee, headed by a deputy prime minister, develops counter-trafficking policies. The Ministry of the Interior, meanwhile, is continuing its programme of counter-trafficking measures, jointly with the local authorities, in southern Azerbaijan, along the border with Iran. In 2000, the State

Commission to combat drug addiction and illicit drug trafficking began setting up regional commissions in towns and regions of the country.

A yearly intelligence, detection and prevention programme, *Khash Khash*, is conducted throughout the country. However, as in the past, the part of Azerbaijan occupied by Armenia continues to be used as a transit point for narcotics, which enter through the approximately 130 kilometres of border with Iran controlled by Armenian troops.

Other matters

Could Azerbaijan please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

The financial supervision bodies are the Ministry of Finance, Ministry of Taxation and National Bank.

The immigration control authorities are the border guard of the Ministry of National Security, the department for visas and registration of foreign citizens of the Ministry of the Interior and the consular department of the Ministry of Foreign Affairs.

An organizational chart of the Ministry of Taxation is attached as annex I.

The structure of the State Customs Committee, as approved by Presidential Decree No. 510 of 19 June 2001, is as follows:

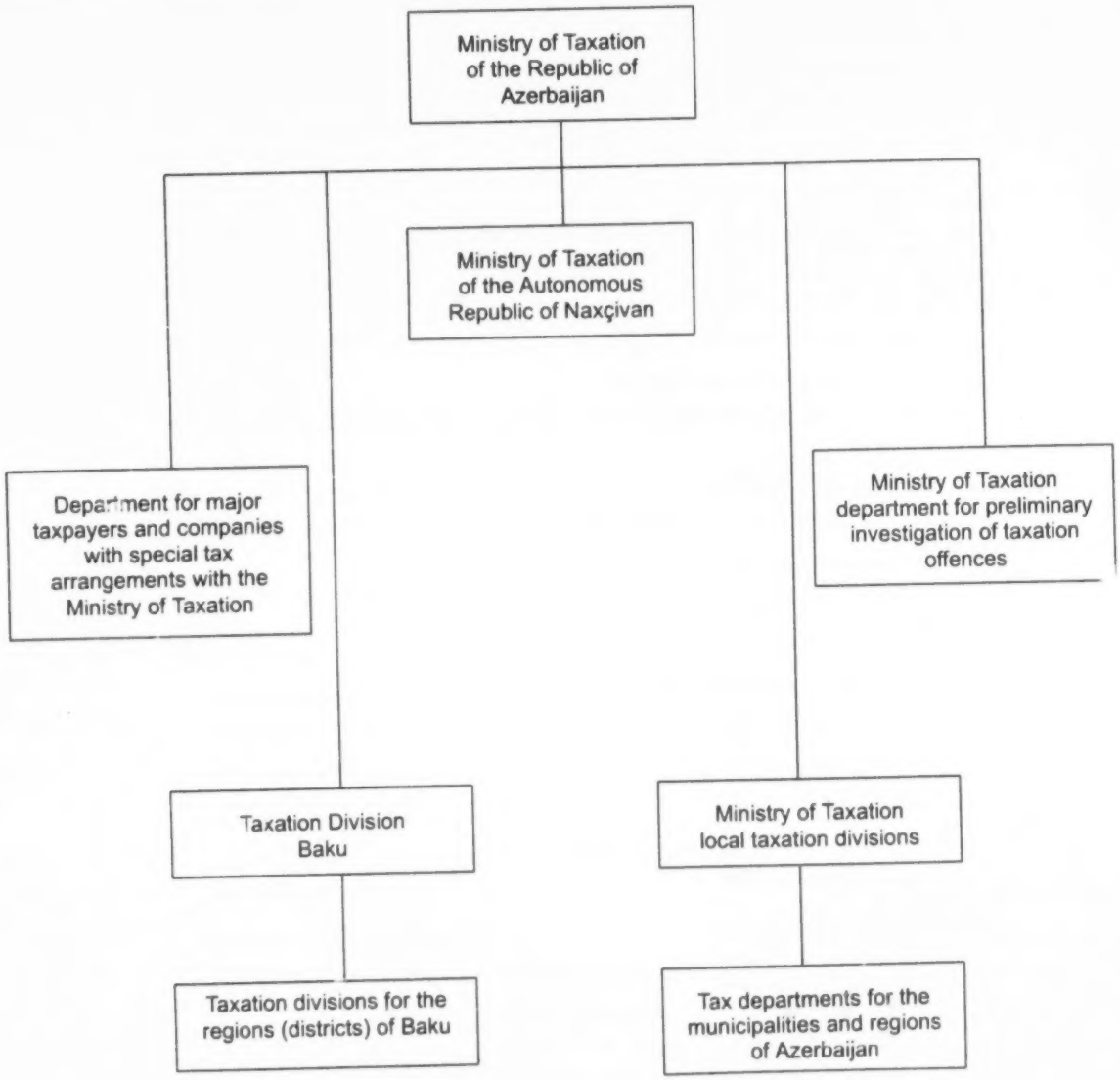
1. Management:
   - Chairman
   - First Deputy Chairman
   - Deputy Chairmen (3)
2. State Customs Committee of the Republic of Azerbaijan:
   - Secretariat
   - Customs Inspection Division
   - Division for the Suppression of Smuggling and Violations of Customs Rules
   - Division for Financial Tariffs and Exchange Control
   - Personnel Department
   - Internal Investigations Department
   - Investigative Department
   - International Relations Department
   - Statistics and Information Technology Department
   - Press Service
   - Department of Administration

- Buildings and Logistics Department
- Legal Office
- Analysis Office
- Intelligence Office
- Accounts Office
- Customs Security Service
- Standby unit

3. The following entities and organizations are part of the system of the State Customs Committee of the Republic of Azerbaijan:

- Customs Committee of Naxçivan
- Baku Municipal Customs Division
- Air Transport Customs Division
- Division for the Protection of the Economic Interests of Azerbaijan in the Caspian Sea
- Energy Customs Office
- Naxçivan Municipal Customs Office
- Astara customs post
- Balakän customs post
- Biläsuvar customs post
- Äli Bayramlı customs post
- Yevlax customs post
- Gäncä customs post
- Sädäräk customs post
- Sumqayıt customs post
- Tovuz customs post
- Xaçmaz customs post
- Khoda Afarin customs post
- Culfa customs post
- Central laboratory
- Azerterminalcomplex — international economic entity's vehicle operations
- Training centre
- Sports/therapy centre

Annex I


Ministry of Taxation of the Republic of Azerbaijan
Ministry of Taxation of the Autonomous Republic of Naxçivan
Department for major taxpayers and companies with special tax arrangements with the Ministry of Taxation
Ministry of Taxation department for preliminary investigation of taxation offences
Taxation Division Baku
Ministry of Taxation local taxation divisions
Taxation divisions for the regions (districts) of Baku
Tax departments for the municipalities and regions of Azerbaijan